

MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
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9:30 A.M.

JAMES F. PETERS, CSR, RPR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Michael Paparian, Chairperson

Sal Cannella

Cheryl Peace

Carl Washington

STAFF

Mark Leary, Executive Director

Kathryn Tobias, Chief Counsel

Julie Nauman, Chief Deputy Director

Scott Walker, Acting Deputy Director

Michael Bledsoe, Staff Counsel

Margaret Blood

Mark de Bie

Chris Deidrick

Christine Karl

Sue Kumpulainen

Wes Mindermann

Virginia Rosales

John Whitehill

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APPEARANCES CONTINUED

ALSO PRESENT

Alan Abbs, Tehama County/Red Bluff Landfill Management Agency

Doug Ames, Director, Lassen County Environmental Health

Mark Aprea, Republic Services

Dan Avera, San Bernardino County LEA

Margaret Blood, Amador County LEA

Tim Casagram, Director, Fresno County Environmental Health

Jerry Cassesi, Amador County Resident

Evan Edgar, California Refuse Removal Council (CRRC)

Sean Edgar, California Refuse Removal Council (CRRC)

Alan Fleming, Tehama County LEA

Hank Gil, Fresno County LEA

Yvonne Hunter, League of California Cities

Mike Mohajer, Los Angeles County Public Works

Mark Murray, Californian's Against Waste

Greg Pirie, Napa County LEA

Mike Schmaelling, Santa Barbara County LEA

Rod Schuler, Director, Amador County Public Works Agency

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PROCEEDINGS

CHAIRPERSON PAPARIAN: Good morning, everybody.

This is a meeting of the Permitting and
Enforcement Committee. Welcome.

As we get started, will the secretary call the
roll.

SECRETARY KUMPULAINIEN: Jones?

COMMITTEE MEMBER JONES: Here.

SECRETARY KUMPULAINIEN: Peace?

COMMITTEE MEMBER PEACE: Here.

SECRETARY KUMPULAINIEN: Washington?

Paparian?

CHAIRPERSON PAPARIAN: Here.

I want to take just a brief moment to welcome our
newest member, Cheryl Peace as a member of the Committee.

Welcome.

As a reminder, if you have your cell phone with
you, if you could turn it off or at least turn it to the
vibrate mode, that would be most appreciated.

There are speaker slips in the back of the room.
If you want to speak on any item, please fill out a
speaker slip and hand it to Ms. Kumpulainen here in the
front of the room.

Do any -- well, we should do ex partes.

Mr. Jones.

1 COMMITTEE MEMBER JONES: Mr. Aprea on C&D.

2 CHAIRPERSON PAPARIAN: I also spoke with Mr.
3 Aprea regarding the Crippen fire item and C&D.

4 COMMITTEE MEMBER PEACE: My ex partes are
5 up-to-date.

6 CHAIRPERSON PAPARIAN: Okay. Before I turn this
7 over to Mr. Walker for the Deputy Director's report, I
8 want to especially take this opportunity to thank the
9 staff who helped deal with the Archie Crippen fire crisis
10 and worked with the Office of Emergency Services, CalEPA
11 and the Governor's Office for the coordinated response on
12 this.

13 We're going to get into this later on in the
14 agenda. But I know -- you know, once again our staff has
15 really gone above and beyond in terms of going down there
16 and doing what's necessary to help with the tragic
17 situation.

18 Also -- different topic. There's been a lot of
19 work behind the scenes, and the staff's been most helpful
20 on this, in arranging for the upcoming community workshop
21 on the Bradley landfill, which is going to be held on
22 February 13th at the Sun Valley Middle School in Sun
23 Valley. I want to thank especially Mr. de Bie who
24 traveled to L.A. to meet with some of the neighbors of the
25 landfill and provide them with additional information

1 about the facility and respective roles of the various
2 agencies with regard to that facility.

3 Carroll Mortensen's work with the Legislative
4 Offices has also been invaluable, as has Chris Peck's work
5 with my office on the outreach to the Los Angeles area
6 media, including the L.A. Times and the L.A. Daily News.

7 Later today staff will be updating the Committee
8 on Crippen fire. We'll be considering ratifying the
9 emergency actions taken.

10 While this issue has been linked by some to the
11 Board's C&D regs, the hearing here today is not about the
12 C&D regs. It's about the Crippen fire and our response to
13 it. Of course, during the public comment period people
14 are free to make public comments about anything they
15 choose to. So in terms of the C&D item, that's coming
16 back in March to the Board. And that's what the Board
17 will be addressing, that issue, the C&D issue.

18 We also have an item today to talk about, public
19 participation during the permitting process. I think this
20 was largely in response to Mr. Washington's request.
21 Although we've been planning to talk about this at some
22 point in the P&E Committee. I'm looking forward to
23 getting a little tutorial from the Legal Office on this
24 issue. However, this won't be the last time we discuss
25 this issue since we'll be getting the UC Santa Cruz

1 contract up and running very soon. Manwell Pastore and
2 his folks from Santa Cruz are bringing people from
3 communities all over California to the Board to talk about
4 public outreach and participation issues. And we'll be
5 looking forward to that in the next few months.

6 So with they'll I'll turn it over to you, Mr.
7 Walker.

8 ACTING DEPUTY DIRECTOR WALKER: Given that we
9 have a pretty heavy Committee meeting today and don't
10 really have much of anything to report at this time, so
11 therefore I'll just hand it back to you to go into the
12 regular Committee meeting.

13 CHAIRPERSON PAPARIAN: Okay. Unless the members
14 have anything else before we get started, we'll go to Item
15 B, the Westwood Landfill in Lassen County, which is Item 3
16 on the regular Board Agenda.

17 ACTING DEPUTY DIRECTOR WALKER: Thank you.

18 Item B is consideration of a revised full solid
19 waste facilities permit (disposal facility) for the
20 Westwood Landfill, Lassen County.

21 Jon Whitehill will give the staff presentation.

22 MR. WHITEHILL: Yes. Good morning, Chair,
23 Committee members.

24 The Westwood Landfill is located one mile outside
25 the small rural community of Westwood in eastern Lassen

1 County, at elevation 5,100 feet. The landfill is
2 permitted to accept an average of 40 tons per week, but
3 currently accepts less than 20 tons per week. On a
4 typical day the landfill accepts less than 5 tons of waste
5 per day.

6 In 1990, 1996, and again in 2001, the LEA
7 conducted permit review reports and determined that there
8 has not been any significant changes in design or
9 operation since the original permit was issued in 1979.

10 However, in May 2001 the LEA requested the
11 operator to submit an application for a permit revision so
12 that the LEA could update the permit to reflect changes in
13 laws and regulations that have occurred since 1979 to
14 clarify the original terms and conditions of the 1979
15 permit, to specify a smaller disposal area as the results
16 of Subtitle D regulations in 1994, and to reference the
17 most recent condition documents.

18 Board staff agreed with the LEA assessment that
19 this updated permit has not substantially changed from the
20 1979 permit.

21 In conclusion, Board and LEA staff have
22 determined that all the requirements for the proposed
23 permit have been fulfilled. The Board staff recommend
24 that the Board adopt the Resolution Number 2003-68,
25 concurring in the issuance of Solid Waste Facilities

1 Permit Number 18 AA 0010.

2 The LEA and operator are also available if you
3 have any questions.

4 Thank you.

5 CHAIRPERSON PAPARIAN: Thank you very much.

6 Before we get into any questions, I want to
7 welcome Mr. Washington.

8 And do you have any ex partes?

9 COMMITTEE MEMBER WASHINGTON: I have none.

10 CHAIRPERSON PAPARIAN: Okay. Any questions of
11 staff about this permit?

12 Mr. Jones.

13 COMMITTEE MEMBER JONES: Mr. Paparian, just one
14 question on the resolution.

15 It says on the second to the last whereas, "the
16 operator has or has not submitted original certification
17 of operating liability."

18 Have they?

19 MR. WHITEHILL: Yes, they have. At the time the
20 item went to print they had not yet -- they had received
21 the original copy, but yes.

22 COMMITTEE MEMBER JONES: Right. So you have
23 that?

24 MR. WHITEHILL: Yes.

25 COMMITTEE MEMBER JONES: All right. Mr. Chair?

1 CHAIRPERSON PAPARIAN: Mr. Jones.

2 COMMITTEE MEMBER JONES: I'll move adoption of
3 Resolution 2003-68, consideration of revised full solid
4 waste facilities permit (disposal facility) for Westwood
5 Landfill in Lassen County.

6 CHAIRPERSON PAPARIAN: Is there a second?

7 I'll second it.

8 Secretary, call the roll.

9 SECRETARY KUMPULAINIEN: Jones?

10 COMMITTEE MEMBER JONES: Aye.

11 SECRETARY KUMPULAINIEN: Peace?

12 COMMITTEE MEMBER PEACE: Aye.

13 SECRETARY KUMPULAINIEN: Washington?

14 COMMITTEE MEMBER WASHINGTON: Aye.

15 SECRETARY KUMPULAINIEN: Paparian?

16 CHAIRPERSON PAPARIAN: Aye.

17 BOARD MEMBER JONES: Mr. Chair.

18 CHAIRPERSON PAPARIAN: Mr. Jones.

19 COMMITTEE MEMBER JONES: Is this appropriate for
20 consent?

21 CHAIRPERSON PAPARIAN: Yes.

22 This should go on the consent calendar.

23 So next we have Item C, or Item 4 on the regular
24 Board agenda.

25 ACTING DEPUTY DIRECTOR WALKER: Item C is

1 consideration of revised full solid waste facilities
2 permit (disposal facility) for the Tehama County/Red Bluff
3 Landfill, Tehama County. This is February Board Item 4.

4 Christine Karl will give the staff presentation.

5 MS. KARL: Good morning, Members of the
6 Committee.

7 This item considers a revised solid waste
8 facilities permit for the Tehama County/Red Bluff Landfill
9 in Tehama County. The facility is owned and operated by
10 the Tehama County/City of Red Bluff Landfill Management
11 Agency.

12 The proposed permit increases the peak waste
13 received per day to 400 tons. The average incoming waste
14 is 200 tons. And of this 200 tons, 56 will be processed
15 by an adjacent material recovery facility, which has an
16 expected start-up date in the end of February.

17 Additional changes to the permit include
18 increasing the permitted acreage to approximately 95
19 acres, decreasing the disposal acreage to 31.6 acres, a
20 change in the hours of operation. And the permit limits
21 the maximum elevation to 545 feet mean sea level and
22 limits the vehicles accessing the site to 200 per day;
23 increases the site capacity to 2.6 million cubic yards,
24 and estimates a closure date for Phase 1 in 2003.

25 The time this item was prepared staff had not yet

1 conducted a reinspection to determine compliance with
2 state minimum standards. This inspection occurred last
3 Thursday, January 30th, and the facility was found in
4 compliance with all the minimum standards except for
5 explosive gas control.

6 The installation of a gas extraction system was
7 completed December 31st, 2002, to bring the gas level into
8 compliance. Gas monitoring was conducted by staff during
9 the inspection, and we found that the gas levels had
10 dropped significantly in most of the wells. Yet the
11 amounts remained above the minimum standard of 5 percent
12 of the lower explosive limit.

13 Staff has applied the long-term gas violation
14 policies to address this issue and has made the required
15 four findings in order for the Board to concur in this
16 permit. Therefore, staff recommends if the Board finds
17 the site to be consistent with the gas standard, that the
18 board concur in the issuance of Solid Waste Facility
19 Permit 52-AA-0001 and Resolution 2003-69.

20 The LEA's available to answer any questions. And
21 I understand the operator has submitted a speaker's slip.

22 This concludes staff presentation.

23 CHAIRPERSON PAPARIAN: Okay. Before we go much
24 further, Committee members were handed two letters on this
25 item. One from John McMahon, Chairman of the LTF Tehama

1 County, dated January 31st. And we were also handed a
2 letter from Alan Abbs A-b-b-s, Solid Waste Director,
3 Tehama County/City of Red Bluff Landfill Management
4 Agency, also dated January 31st.

5 We do have one speaker slip from Mr. Abbs. But
6 are there questions before we hear from him?

7 Mr. Washington.

8 COMMITTEE MEMBER WASHINGTON: Yeah, to staff. In
9 terms -- I'm sorry. And this probably is best to be
10 answered by the LEA, who can tell us -- in terms of the
11 public hearing. Now, I see from Tehama County's -- the
12 one that Mr. Chairman just talked about, and it talked
13 about the CEQA hearings. But I want to know if there were
14 any good-faith hearings with the stakeholders in that
15 community as to this particular solid waste.

16 MS. KARL: I'm not sure of any specific dates or
17 anything else regarding that. But maybe the -- Alan --

18 COMMITTEE MEMBER WASHINGTON: Is the LEA here?

19 MS. KARL: Yes. They're both named Alan.

20 Do you want --

21 CHAIRPERSON PAPARIAN: Yeah, if you could step up
22 to the microphone and then identify yourself for the
23 record.

24 MR. FLEMING: Good morning. I'm Alan Fleming.
25 I'm the LEA from Tehama County.

1 COMMITTEE MEMBER WASHINGTON: Besides the CEQA
2 hearings were there any public hearings that involved any
3 homeowner associations or any community organizations that
4 are out there that surround this landfill?

5 MR. FLEMING: I'm not personally aware of any.

6 COMMITTEE MEMBER WASHINGTON: Thank you.

7 MR. FLEMING: You might direct this question to
8 Alan Abbs.

9 COMMITTEE MEMBER WASHINGTON: No -- yeah, that's
10 fine. And that's probably the case.

11 And, Mr. Chair, just so you know, I'm not going
12 to vote on any more of these landfills. I just don't
13 believe that we're going down the right track in terms of
14 continuing to move these landfills forward without having
15 public inputs in these particular incidents. I just
16 received a FAX from Chair Reyes who was moving forward
17 with legislation that's going to make us do this. They're
18 going to make us make sure that there are public hearings
19 held before you issue any more permits regarding landfills
20 or anything else. So I'm not going to vote on any more of
21 these until we have some good-faith effort made on this
22 Board to move forward with adopting regs that's going to
23 make sure that the stakeholders in all these landfills
24 have some say into these type operations in their
25 community and their backyards.

1 Thank you.

2 CHAIRPERSON PAPARIAN: Okay. Any other questions
3 before we go to the witness?

4 Okay. I'm sorry. Did you want to add anything
5 else at this point or should I --

6 MR. FLEMING: I didn't have anything.

7 CHAIRPERSON PAPARIAN: Okay. We may have more
8 questions for you in a few minutes.

9 I have Alan Abbs from the Tehama County/Red Bluff
10 Landfill Management Agency.

11 MR. ABBS: Good morning, members of the
12 Committee. As Mr. Paparian has said, I submitted two
13 letters of support for the permit application, one from
14 John McMahon, who is the chairman of the local task force.
15 He was also a public member at large of one of the
16 landfill Joint Powers Authorities in the late nineties.
17 And then also a letter from myself, which hopefully
18 addresses some questions that the members of the Committee
19 may have.

20 I wanted to start off by thanking Waste Board
21 staff for the tremendous amount of help that I've received
22 from them in the last year and a half since I've been
23 Solid Waste Director in Tehama County. I think we've made
24 many improvements in Tehama County over the last year and
25 a half towards coming in to compliance with issues that

1 we've had with solid waste in the county.

2 The letter that I submitted addressed three
3 items:

4 One was about the public information and the
5 ability for the public to participate in the process.

6 The other was to discuss the increase in
7 permitted tonnage, which does appear to be drastic, from
8 100 tons per day to 400 tons per day.

9 And the last item I wanted to address was the
10 issue of our being out of compliance with methane gas at
11 the property boundaries.

12 I'll start off with the public knowledge of the
13 landfill and operations. The solid waste activities in
14 Tehama County are overseen by two Joint Powers
15 Authorities, the Tehama County Sanitary Landfill Agency,
16 which is comprised of the cities of Red Bluff, Corning and
17 Tehama, as well Tehama County; and also the Tehama
18 County/Red Bluff Landfill Management Agency, which is
19 overseen by the County of Tehama and the City of Red
20 Bluff.

21 Besides that the landfill also has to present
22 agenda items to the Tehama County Board of Supervisors, to
23 the Red Bluff City Council, and to the Tehama County
24 Integrated Waste Management Local Task Force, which is
25 comprised of concerned citizens.

1 In looking over the last four years of public
2 hearings, the landfill did have two public hearings, one
3 regarding land acquisition and one regard the CEQA process
4 for the re-permitting of the landfill.

5 COMMITTEE MEMBER WASHINGTON: Who held that
6 hearing?

7 MR. ABBS: The land acquisition was held by the
8 Tehama Board of Supervisors. The CEQA process was done by
9 the Tehama County/Red Bluff Landfill Management agency.

10 COMMITTEE MEMBER WASHINGTON: The Board of
11 Supervisors and the management agency?

12 MR. ABBS: The Tehama County/Red Bluff Landfill
13 Management Agency, which is a Joint Powers Authority.

14 COMMITTEE MEMBER WASHINGTON: Made up of who?

15 MR. ABBS: Which is made up of the County Board
16 of Supervisors and the Red Bluff City Council.

17 COMMITTEE MEMBER WASHINGTON: So these are
18 elected officials, not the actual citizens themselves?

19 MR. ABBS: These are elected officials, yes.

20 COMMITTEE MEMBER WASHINGTON: Okay.

21 MR. ABBS: So there were two public hearings
22 regarding landfill issues within the last four years.

23 Additionally, I've also listed the Tehama County
24 Grand Jury investigated the Landfill and its operations
25 for two years, fiscal year 2000-2001, also fiscal year

1 2001-2002. Both investigations resulted in no negative
2 findings and no reports required of the landfill or any of
3 its activities.

4 I also listed all the Joint Powers Authority
5 meetings that have been conducted in the last four years
6 that discussed items relating to this permit, including
7 methane gas system, CEQA study, property acquisition, and
8 various compliance orders that went in towards that.

9 And, additionally, the Tehama County Integrated
10 Waste Local Task Force has met every other month
11 continuously and has discussed landfill issues and
12 problems that we've had on an ongoing basis. And in the
13 letter from Mr. McMahon, Chairman of the LTF, talks a
14 little bit about some of the improvements that he's seen
15 over the years.

16 The next item I wanted to address was the
17 increase in the permitted tonnage. In 1989, the last time
18 the landfill received a permit, our permitted tonnage was
19 100 tons per day. That was done without the benefit of
20 having a scale on-site to accurately give us an idea of
21 how much waste we were receiving.

22 In 2000 and early 2001, we did a CEQA study where
23 we analyzed the daily tonnage coming in to the landfill.
24 That daily average turned out to be around 140 tons per
25 day.

1 Incidentally, our year 2000 diversion was 46
2 percent.

3 There were, however, several days when we
4 exceeded that 140 ton per day average by more than double.
5 So the reason we're requesting the 400 ton per day
6 limitation is to make up for those days, which are
7 primarily construction and demolition events related to
8 bridgework and other industrial activity.

9 The last item I wanted to talk about was our
10 methane gas system. We have been on a compliance order
11 since 1998. In the year 2001 we received a facility
12 compliance loan from the Waste Board in the amount of half
13 a million dollars. We did finish up our methane gas
14 system and we lighted the flare on New Years Eve 2002.
15 And the flare itself has run for a little over 30 days.
16 It's run at half speed. And already we've seen decreases
17 in methane gas at the property boundaries by up to 16
18 percent on average. So we're well on our way to coming
19 into compliance with methane gas violations.

20 In good faith we have submitted to the Waste
21 Board a list of actions that we would take if we don't
22 reach our compliance by April 1st. And they include
23 adding new wells or running the system a little bit harder
24 than we had originally anticipated.

25 So in conclusion, I'll answer any questions

1 Committee members would have. But I think that we have
2 been working towards this permit in good faith and we have
3 done what we've needed to do to get back on track in the
4 county.

5 CHAIRPERSON PAPARIAN: Any questions of this
6 witness?

7 Mr. Washington.

8 COMMITTEE MEMBER WASHINGTON: Yes, just briefly.

9 I had a discussion in my office with him and I
10 raised the concerns that I had and I still have today.
11 Even with the gas burning off the fuels from the tonnage
12 that he has now, I'm not comfortable with supporting the
13 increase if he's been out of compliance for eight years
14 already and to increase the tonnage to 400 tons, that
15 means that there will be more fuel burning. That means
16 that you need more gas. And the amount gas that I believe
17 this Board even helped him with is not enough to cover for
18 400 tons. And so that's -- I mean there's several
19 concerns I have with this entire process. But, in
20 particular, this one. I think those are a couple of the
21 issues that I raised with him, and this is not something
22 he's just finding out what my concerns were. I raised
23 them with him in a private meeting I had with him.

24 And so, again, I just have some concerns as it
25 relates to moving this particular landfill request

1 forward.

2 Thank you, Mr. Chair.

3 MR. ABBS: May I respond to that?

4 CHAIRPERSON PAPARIAN: Go ahead.

5 MR. ABBS: I probably didn't mention it strongly
6 enough in my letter. But I did talk about the division
7 between residential and commercial-industrial waste in the
8 county. It's roughly 50 percent for both sides. Our
9 requested increase from 100 tons per day to 400 tons per
10 day doesn't imply that we're planning on soliciting
11 out-of-county waste. The county doesn't accept
12 out-of-county waste right now. The only waste we get is
13 from Tehama County residents.

14 So in terms of increasing on a daily basis to 400
15 tons, there's no thought to doing that. We're still --

16 COMMITTEE MEMBER WASHINGTON: Yeah, but you still
17 have the ability to do so. And that's the thing that
18 frightens me. The man down in Crippen fire didn't have
19 the -- didn't have -- he was operating under a 40 ton.
20 But we went down there and saw about 400 tons. So I mean,
21 I'm just telling -- and this is to everybody -- I'm not
22 going to support any of these things if they don't have
23 some public input, not just elected officials. That's the
24 problem in Bradley Landfill -- the elected were all on
25 board, but community was not involved with the process.

1 And so to sit here and tell us, you know, "We
2 don't think we'll get to 400 tons," we can't operate like
3 that.

4 COMMITTEE MEMBER JONES: Mr. Chair.

5 CHAIRPERSON PAPARIAN: Mr. Jones.

6 COMMITTEE MEMBER JONES: Just a couple things.

7 I think that -- I can understand some of Mr.
8 Washington's concerns. But I do think that, in fairness
9 to this operator and to this Board, we need to have a
10 presentation of how this system works. The 400 tons a day
11 is mandated by our own rules because if you're going to
12 take material and if there is an event within that county
13 where tonnage goes up, you've got to be within your
14 permitted limits. So even if you're only taking 100 tons
15 a day, but you do two huge community-wide cleanups for
16 free, you've got to have a permitted facility that is
17 going to be permitted to a number higher than what could
18 be collected that day. And that's what this gentlemen is
19 saying.

20 The other issue is that, you know, for, I don't
21 know how long, probably at least -- well, at least the
22 last 30 years that I remember, when the local government
23 calls for a public hearing, an elected body, the Board of
24 Supervisors, calls for a public hearing, they're not
25 excluding the public, they're inviting the public. And

1 the public brings its issues to the forefront of that
2 board, and that board's going to make the decision based
3 on whatever's relevant in that community. They understand
4 the community a whole lot better than we do.

5 And the thing that has always scared me, as an
6 operator and as a board member, is that local government,
7 those locally elected officials, when they screw up, they
8 usually get booted out of office because the citizens are
9 offended that they let something go through or for what
10 reason. So I think the way the process is set up, it's
11 set up so that local government deals with its business.
12 And that after that business is done, they bring it to us
13 to see if everything was up to speed.

14 I got no problem with public hearings. I had a
15 lot of landfills, a lot of transfer stations, and a lot of
16 franchise agreements, that I sat in front of more Board of
17 Supervisors and City Councils, I'll guarantee you, than
18 anybody in this room. Because that's how I did my
19 business. I had no problem with that. But that business,
20 once it was done and you changed what your proposal was or
21 you fixed whatever was a concern of the community, then it
22 moved to the next step. And the next step was to get that
23 thing approved by the local -- city council, board of
24 supervisors -- and then on to the Waste Board.

25 The process -- what I like about what Tehama did,

1 they've had a gas problem. Okay. Garbage makes gas.
2 Every landfill in the State of California will have gas.
3 Senator Roberti and I, at the direction of all our fellow
4 Board members, came up with a gas policy -- long-term gas
5 policy. Everything is going to make gas. The policy was,
6 when do we give that permit out? What Tehama's done is
7 they've installed a system to collect it and to flared it
8 off. They're in compliance with the long-term gas
9 violation policy because they've put the things in place
10 that are going to draw it.

11 But one thing that scared me that our witness
12 said is that they might have to draw quicker. And the
13 reason it scares me is I don't want the public or anybody
14 on this Board to think that you can just increase vacuum
15 within a gas system to suck more gas out. Because once
16 you start entering oxygen into that mix, you're going to
17 ignite. You're going to have a fire. And that fire's
18 going to be in the ground. So its a very measured
19 process.

20 I congratulate Tehama County. I understand your
21 concerns. But in fairness, I think, Mr. Leary we need to
22 have, I think, an expanded workshop on the process -- we
23 did it -- they did it for me and they did it for other
24 members about four years ago -- three or four years ago.
25 And I think it's just good to see what the steps are and

1 what's out so that we have a real good understanding of
2 what -- you know, what has been done. Because sometimes
3 there's an assumption based on somebody's letter that
4 nothing was done, when in actuality a local government
5 decided not to do what that particular citizen wanted
6 done.

7 That doesn't mean that you go to the next step up
8 and get it done. I mean there's a local process.

9 So I'd hope that we would have some kind of a
10 workshop to lay that out at some point.

11 CHAIRPERSON PAPARIAN: Okay. Let me try to help
12 kind of parcel up a couple of the issues that have been
13 raised, and then try to address some of them.

14 Just quickly on the workshop idea, perhaps we can
15 explore that. I don't know if that would be a Committee
16 workshop or a full Board workshop. But I certainly can
17 attest that I benefited from some of the workshops that we
18 had early-on when I was on the Board going through the
19 whole process. So maybe we can explore that.

20 But back on the issue though. We have state
21 minimum standards. And one of the state minimum standards
22 is gas at the boundary of a facility. One of the few
23 reasons we can give for denying a permit if we choose to
24 deny a permit is violation of state minimum standards.
25 What we have in place, however, is a long-term gas

1 violation policy which allows us to overcome a violation
2 of state minimum standards with regards to gas if the
3 facility is consistent with the long-term gas violation
4 policy.

5 However, in response to a report from the
6 legislative auditor about two years ago, we took a look at
7 this policy. And that's then what Mr. Jones referred to.
8 He and Mr. Roberti got together and talked about what
9 adjustments we might make to that policy to -- how do I
10 want to phrase this? -- to assure that we're comfortable
11 with the policy and that it's consistent with the law.

12 We then directed staff I believe last August to
13 take the recommendations from Mr. Roberti and Mr. Jones.
14 I think there were 10 of them, if I recall -- or 9 or 10
15 recommendations and turn those into regulations.

16 So my first question is: Where are we in that
17 process? We were going to -- we have an existing policy.
18 The Board wasn't 100 percent comfortable with that policy.
19 We directed staff to make some changes to that through
20 Regulation.

21 COMMITTEE MEMBER WASHINGTON: It was two years
22 ago?

23 COMMITTEE MEMBER JONES: It was like five months
24 ago.

25 CHAIRPERSON PAPARIAN: The legislative auditor's

1 report was about two years ago. We ultimately got to this
2 item for direction to staff back in August.

3 ACTING DEPUTY DIRECTOR WALKER: Let me answer
4 that.

5 We had gone to the Board and got their direction
6 to go forward with preparing a rule-making concept to come
7 back for consideration of a 45-day comment period. So
8 we're in the informal process right now. That project's
9 been assigned to staff. It's been assigned to John Bell,
10 who's our gas -- one of our gas experts. And part of that
11 direction includes convening a task force. So he is in
12 the process right now of developing that. And I am
13 expecting right now a report back and progress indicated
14 in March or April on that.

15 So as far as when we would have an actual
16 regulation before the Board, I can't tell you at this
17 point. But it would probably be most likely after June,
18 probably in July at this point.

19 COMMITTEE MEMBER WASHINGTON: Why would it take a
20 year, Mr. Walker, to get back when the two Board members
21 made a direction in terms of -- I mean I'm just -- if you
22 can explain it to me why it would take a year for us to
23 get to where the Board wants to go, what am I missing
24 here?

25 ACTING DEPUTY DIRECTOR WALKER: Well, the

1 direction of the Board involves convening a task force.
2 So We have to get together a task force of experts in
3 order to make recommendations -- specific recommendations.
4 So this is kind of a little bit beyond what we
5 normally do with a reg package. When we get it back and
6 we develop it, and then we come back basically in-house.
7 This is another part of it. And so part of the direction
8 is to bring in some experts, like John Pacey, who's an
9 expert in gas. And right now we're working on that. And
10 so --

11 COMMITTEE MEMBER WASHINGTON: Where is John
12 located? Is he in California?

13 ACTING DEPUTY DIRECTOR WALKER: John is in
14 California, and he's one of the parties --

15 CHAIRPERSON PAPARIAN: Yeah, let me back up just
16 one second here and let me make sure I'm understanding
17 things.

18 The old policy was not regulations?

19 ACTING DEPUTY DIRECTOR WALKER: Correct.

20 CHAIRPERSON PAPARIAN: Then there was the
21 Roberti-Jones proposal, which we want to turn into
22 regulation.

23 What policy are we operating under right now? Is
24 it the old policy or the Jones-Roberti policy?

25 MR. de BIE: It's staff's position that when the

1 Board gave direction to begin the informal process on
2 those regulatory concepts, that the existing policy would
3 remain in effect. There was discussion about should it be
4 rescinded, should it be voided or whatever. It's staff's
5 opinion that the direction to staff was to continue with
6 the existing policy and then begin the informal process on
7 the regulations.

8 CHAIRPERSON PAPARIAN: Okay. So --

9 MR. de BIE: So the old policy is in effect.

10 CHAIRPERSON PAPARIAN: Okay. If you held this
11 facility up to the proposed policy, would it be consistent
12 with the proposed policy?

13 MR. de BIE: In other words if we measured it to
14 those 10 concepts --

15 CHAIRPERSON PAPARIAN: Right.

16 MR. de BIE: -- that were to be folded into
17 regulation?

18 CHAIRPERSON PAPARIAN: Right.

19 MR. de BIE: Given that many of those were sort
20 of very generic and general and needed to be firmed up
21 through an expert panel process, I think in a very general
22 way this site would stand up to those, if not surpass them
23 in some areas.

24 CHAIRPERSON PAPARIAN: Okay. On the gas issue --
25 I mean I remember I was not happy with the old long-term

1 gas violation policy, but I was comfortable moving forward
2 with the Jones-Roberti policy. The folks in Tehama are
3 kind of stuck in the middle here where they're trying to
4 operate under an old -- or trying to move forward under an
5 old policy, whereas some of us are anxious to get the new
6 policy in place to make sure that we're up to date and
7 consistent. In fact I believe the auditor's report, if I
8 remember it correctly, even questioned the legality of the
9 old policy.

10 MR. de BIE: That's correct, Mr. Chair. And I
11 believe during the debate following the audit -- and as
12 you may recall that the Board was concerned with this
13 policy even before the audit, and the audit brought it to
14 the forefront. I believe during the debate there was a
15 request for a legal opinion relative to the legality of
16 the policy. And I don't want to speak for the Legal
17 Office, but my recollection is that the determination was
18 that it was consistent with statute and regulation.

19 CHAIRPERSON PAPARIAN: Is that your recollection
20 too, Ms. Tobias?

21 CHIEF COUNSEL TOBIAS: That's my recollection.

22 (Laughter.)

23 CHAIRPERSON PAPARIAN: Okay. We may want to
24 double check on that.

25 ACTING DEPUTY DIRECTOR WALKER: I'd like to bring

1 up and just to add to that just real briefly, that keep in
2 mind that the Board has made pretty amazing progress on
3 the long-term gas violation. In the inventory of solid
4 waste facilities in violation of state minimum standards,
5 I think on the order of -- I think it was four or five
6 years ago we had I think it was 17 landfills that had
7 long-term gas violations. We have two now. I think it's
8 two. And so, you know, we have -- the Board has made some
9 really excellent progress in this area. But unfortunately
10 with Tehama, we're -- in one facility that we had hoped
11 with this gas control system we'd be in a position now
12 where we weren't, it's still at those levels, but --
13 therefore, we've had to invoke the long-term gas violation
14 policy.

15 So this is not something that's going to -- we
16 expect is going to be coming up very often.

17 CHAIRPERSON PAPARIAN: Okay. Now, the choices
18 before us are basically three choices. We can -- well,
19 there's actually probably more than 3, but -- we can
20 support this proposal.

21 If we want to turn down the proposal, we have to
22 make certain findings on the record, which the law
23 requires to us do so if we turn down the proposal. And
24 the law's fairly specific as to what those findings must
25 relate to, state minimum standards being one of the key

1 ones.

2 And the third option is that if we either -- if
3 we fail to support or oppose, we would ultimately deadlock
4 3-3. Or if we didn't take actions that would result in
5 them getting four votes of support, the proposal would be
6 bounced back to the LEA, and the LEA would have the
7 authority within a fairly short time period to issue a
8 permit.

9 So I want to make sure we all understand what our
10 choices are here.

11 Is that, Mr. Leary -- Ms. Tobias is discussing
12 that -- is that your understanding of what our options
13 are?

14 EXECUTIVE DIRECTOR LEARY: Yes, that's in a
15 nutshell I think a pretty good shot at it.

16 Let me offer a suggestion, Mr. Chairman and
17 members of the Committee.

18 One of the issues that are coming up as part of
19 this discussion on this permit will be discussed in a
20 little more detail in kind of the tutorial fashion you
21 related to earlier, Mr. Paparian, in our workshop item.
22 It occurs to me then that there may be some value to
23 moving that workshop item up on the agenda to have a kind
24 of description of the process that Mr. Jones was looking
25 for, as well as the opportunities for public comment that

1 Mr. Washington is looking for, prior to the consideration
2 of some of these other permits. And I have no sense of
3 what these other permits have in regards to issues
4 regarding public notification or concurrence problems.
5 But there may be some value to do some framework setting
6 earlier rather than later in today's agenda.

7 CHAIRPERSON PAPARIAN: Okay. So your suggestion
8 is to postpone action on this till after we have that
9 portion of our agenda. We do have some other items on the
10 agenda. So we may need to -- if we did that, this would
11 wind up being the last item on the agenda. But --

12 CHIEF COUNSEL TOBIAS: Mr. Paparian, I might also
13 add that I do have on the overhead the reasons to object
14 to a permit, if the Board wants to see them now or later.
15 So it's up to you.

16 CHAIRPERSON PAPARIAN: Would the members like to
17 see that now?

18 COMMITTEE MEMBER WASHINGTON: I think for my
19 sake, I would like to see -- how long would it --

20 CHIEF COUNSEL TOBIAS: I'm just going to flash it
21 up overhead.

22 CHAIRPERSON PAPARIAN: Why don't you go -- yeah,
23 go ahead and put it up on the screen.

24 (Thereupon an overhead presentation was
25 Presented as follows.)

1 CHIEF COUNSEL TOBIAS: In 44009, this calls out
2 the reasons, if you will, that the Board can object to a
3 permit. So as Mr. Paparian -- or Chairman Paparian
4 indicated, in A2, if a project is not consistent with
5 state minimum standards, then the Board shall not concur
6 in the permit.

7 The second page, Deborah.

8 --o0o--

9 CHIEF COUNSEL TOBIAS: Thank you.

10 If CEQA -- for discretionary projects, if the
11 CEQA has not been prepared correctly for the project, then
12 the Board's able to object to a permit.

13 And I'll go into the difference as to when the
14 Board's a lead agency and a responsible agency in my
15 presentation.

16 --o0o--

17 CHIEF COUNSEL TOBIAS: If proposal does -- or the
18 proposed project does not have its financial
19 responsibility in place, its operating liability, for its
20 post-closure maintenance, then the Board can object to it.

21 --o0o--

22 CHIEF COUNSEL TOBIAS: The solid waste facility
23 has to be consistent with the standards adopted by the
24 Board. Then there's additional requirements for
25 conversion or transformation facilities. And that 50,001

1 is conformance findings that are made by the Board with
2 the local plans.

3 So those are the only objections -- or the only
4 reasons that the Board can object to a permit.

5 CHAIRPERSON PAPARIAN: Okay. Going back to
6 your -- I think it was on your first screen.

7 The Board shall object if it determines that the
8 proposed permit is not consistent with state minimum
9 standards. I think that's the one we want to expand on
10 here to understand.

11 At this point in time, it appears that the
12 facility is out of compliance with state minimum
13 standards --

14 CHIEF COUNSEL TOBIAS: On gas.

15 CHAIRPERSON PAPARIAN: On gas.

16 So if you could explain why the Board would be
17 able to approve -- if it chose to do so, why would we be
18 able to approve a facility if it did violate state minimum
19 standards?

20 CHIEF COUNSEL TOBIAS: Well, I don't have this on
21 a overhead, and I don't know if Mr. de Bie has it in his
22 hands. But basically in the regulations for gas, the way
23 that the regulation is stated is that if a facility is out
24 of compliance, they can do a compliance plan to come into
25 compliance with that.

1 So because it's a long-term situation and not
2 something that can immediately be adjusted or dealt with
3 with an LEA, our regulations give the Board additional
4 time -- or I should say perhaps gives the facility
5 additional time to deal with the gas problem as long as
6 they have a compliance agreement in place.

7 Do you want to add anything to that?

8 MR. de BIE: No, I think that's -- my
9 recollection of part of the discussion previously is that
10 given that this particular kind of violation takes a long
11 time to come into compliance, if you look at the gas
12 standard there are various steps that the operator is
13 required to take, and includes coming up with a compliance
14 plan. And certainly this site and this operator have done
15 that.

16 So the last thing is just waiting for the that
17 system to come into full operation and get the gas levels
18 down. So there's nothing more the operator could do
19 beyond what they're doing. They're doing absolutely
20 everything they can do to control that gas. There's
21 nothing more anyone could require or ask them to do to
22 have them come into compliance any faster, because of what
23 Mr. Jones indicated, the danger of making a situation
24 worse.

25 COMMITTEE MEMBER WASHINGTON: Couldn't we, Mr. de

1 Bie, have issued a cease and desist order until they came
2 into compliance? I mean is that --

3 MR. de BIE: A cease and desist --

4 COMMITTEE MEMBER WASHINGTON: I mean in terms of
5 operating. It seems like to me they're continuing to
6 operate even though they're in violation.

7 MR. de BIE: So stopping something, waste --

8 COMMITTEE MEMBER WASHINGTON: I'm just -- yeah,
9 I'm just thinking out of the box in terms of how we get --
10 I mean do we allow someone to be out of compliance 20
11 years, 30 -- I mean I don't know what the -- it sounds
12 like to me this is an 8 to 10 year process right here now
13 that we're in with this particular one.

14 And certainly I just wanted to make sure that the
15 operating owners understand, that Red Bluff understands
16 that I'm not personally picking on you. I'm just using
17 this as a part of the discussions that we need to be
18 having anyway. Just so -- it's nothing, you know, bias
19 towards you.

20 MR. de BIE: Certainly enforcement options
21 include cease and desist of some nature. I think the LEA
22 would then be obligated to connect whatever they're asking
23 the operator to cease with the gas issue.

24 Penalties could have been associated with staying
25 out of compliance with the gas standard. I think part of

1 the discussion between the LEA and the operator is, "Is
2 your money better spent putting in a gas system and trying
3 to control the gas or paying a penalty?"

4 And so I would speculate that maybe the decision
5 was to allow the operator to throw their money at coming
6 into compliance as opposed to paying penalties. But you
7 could ask the LEA and the operator about that situation.

8 CHAIRPERSON PAPARIAN: Ms. Peace.

9 COMMITTEE MEMBER PEACE: Mr. Abbs has said that
10 the gas -- it'd been down 16 percent. The state minimum
11 standards is 5?

12 MR. ABBS: Let me explain that. We -- on the
13 30th of January, which was last Thursday, Waste Board
14 staff came up to the landfill and in the presence of a
15 third party did gas monitoring in the perimeter. And when
16 I mention the 4 percent, 4 1/2 percent, and 16 percent in
17 my letter, there's three types of probes. There's that
18 shallow, the intermediate, and the deep probes. And
19 the -- Tehama County it was the deep probes that were
20 giving us the problems. We had methane gas in excess of
21 50 percent at several of the probes. In one month of
22 operation, at half of our projected operating speed of the
23 system, we did register an average decrease of about 16
24 percent. So we went from in excess of 50 percent on-site
25 to somewhere in the mid 30's, high 30's. And we

1 anticipate that as the system comes up to speed and we
2 work out the bugs and tune it correctly, that we'll come
3 down to that 5 percent or lower.

4 COMMITTEE MEMBER PEACE: How long do you think
5 that will take, to get down to the state minimum
6 standards?

7 MR. ABBS: Our current compliance order gives us
8 until April 1st. When you're working on a gas system,
9 it's very hard to make that drop-dead date. As Mr. Jones
10 said, the last thing you want to do is ramp up the system
11 too fast and start pulling oxygen into the landfill. So
12 as we're tuning it and increasing the speed, we're airing
13 on the side of caution, going up about 10 percent a week,
14 till we get to where we think we can maintain the system.

15 And one thing I would like to reiterate to the
16 members is that this all wouldn't have been possible
17 without the Waste Board's facility compliance loan.
18 Although the landfill is fully funded for closure, we have
19 a pledge of revenue for almost every other long-term
20 expense that we have. And, as Mr. de Bie said, assessing
21 fines to the county and the landfill would be
22 counterproductive to being able to come into compliance
23 and run the landfill, which is the only landfill in Tehama
24 County, over the long term.

25 CHAIRPERSON PAPARIAN: Just a follow up on

1 something that was said in response to Ms. Peace.

2 The April 1st compliance order deadline -- okay.

3 Now, we have some material indicating what will happen if
4 they are unable to come into compliance, the additional
5 steps. I think I have a copy of a letter that suggests
6 that they will conduct additional steps if they fail to
7 bring the gas under control.

8 Now, you might recall that one of the issues I
9 had with a different permit a year or two ago was that
10 the -- I felt that the commitments of the operator were
11 not enforceable, that they were just oral commitments.

12 On this facility we -- you know, it's a slightly
13 different situation. If they are unable to get to 5
14 percent, how enforceable are their commitments in the
15 letter that we have been provided?

16 MR. de BIE: If I may. I'm looking at -- and
17 this is in the agenda item package. Attachment 4 I'm
18 looking at, page 417, specific actions required in that
19 enforcement action includes the compliance date of April
20 1st, 2003, to demonstrate compliance with an explosive
21 gas. And then following that is, "If compliance cannot be
22 attained, the contingency plan for gas control dated
23 December 28th, 2002, must be implemented."

24 What you have in your item is the contingency
25 plan that was dated December 19th. It was updated on

1 December 28th, and we didn't include that update. It's
2 very similar to what's included in the agenda item
3 package.

4 So in effect the letter that outlines the
5 contingency plan is part of the enforcement order. So
6 through that enforcement order the LEA can require the
7 operator to follow through on those amendments.

8 So it's much more than a verbal. It's actually,
9 again, included in the enforcement order.

10 CHAIRPERSON PAPARIAN: Mr. Jones, do have some
11 question?

12 COMMITTEE MEMBER JONES: No. I do have a
13 question for Mr. de Bie though.

14 On the expectation of the gas being at 5 percent
15 by April is probably a pretty ambitious expectation. That
16 date was put in when the original compliance order was put
17 together?

18 MR. de BIE: Yes. And I believe that date is
19 based the assumptions made by the operator at the time
20 of -- as they were establishing the system.

21 COMMITTEE MEMBER JONES: Okay. And I think
22 that's fair. But I think one thing is -- if you would
23 agree or disagree, Mr. de Bie -- is depending upon how
24 that landfill was actually constructed on a day-to-day
25 basis, there may be -- there's no highway for gas to

1 travel to a draw. They're barriers, like cover material
2 and things like that, that restrict flow sometimes. So as
3 long as you see the system working where it is drawing
4 down that amount of gas, would that tend to support the
5 idea that the system is working but that there may be
6 barriers in just the normal day-to-day construction of the
7 landfill in inhibiting quicker movement of gas? Or -- but
8 you see it going down. That's going to factor into your
9 decision making, correct?

10 MR. de BIE: I'll answer in a very general way,
11 and then I'll defer to Mr. Walker, the engineer, who is
12 very familiar with gas.

13 Yes. It's not automatic. It does take time to
14 come into compliance. I find it something of note to
15 indicate that the gas seems to be at lower levels as
16 opposed to upper levels, so it tends to point to me that
17 there is active control going on with that system.

18 And I'll just speak to the contingency plans, is
19 that if the operator for some reason miscalculated in
20 placement of wells or the number of wells, they have
21 committed already to place additional wells. So they
22 already committed to check and adjust if necessary.

23 COMMITTEE MEMBER JONES: So they'll be able to
24 check and adjust. I guess what I'm saying, April, maybe
25 it's May, maybe -- you know, whatever. It's when you

1 start seeing no draw or you start seeing elevations going
2 up that you're realizing that there's got to be placement
3 of other wells, you've got to change the configuration of
4 that system to attack an area that's obviously generating
5 more, and it's migrating into that area. And that would
6 be a normal process, correct?

7 MR. de BIE: Yeah. We see that, a constant check
8 and adjust at sites that have had systems in for years and
9 years, where they have it operating just fine, something
10 happens, seasonal changes, shifts, whatever, and they
11 start seeing elevated levels in some wells, and then they
12 adjust the system again to bring those down.

13 So it's a constant back and forth feedback loop
14 to maintain the gas.

15 COMMITTEE MEMBER JONES: Thank you.

16 CHAIRPERSON PAPARIAN: Mr. Washington.

17 COMMITTEE MEMBER WASHINGTON: Yes, Mr. Chair,
18 this is to staff again, Mr. Walker, if he wants to answer
19 this.

20 There's a letter here from Lawrence & Associates
21 in our files from Mr. Clayton Coles, who suggested that
22 installing this gas extraction system would cost about
23 \$84,000. And at the very end of his paragraph he says,
24 "This definitely will work."

25 My question is, in all fairness to Red Bluff

1 Landfill Agency, why didn't you bring this back in April
2 rather than this month, when they could put the system
3 together to see if it works?

4 ACTING DEPUTY DIRECTOR WALKER: I think we'd have
5 to direct that question to the authority at this time.
6 Because the permit was submitted under the required time
7 lines, so we have a certain period of time where the Board
8 has to consider this permit application. And then they
9 did waive the time --

10 COMMITTEE MEMBER WASHINGTON: So April would have
11 been too late?

12 ACTING DEPUTY DIRECTOR WALKER: Well, we'd have
13 to ask the authority, because I know they did withdraw the
14 time lines to this month. And so I'm not sure whether
15 they would be willing to wait till April to come back.
16 It's kind of -- it's their decision.

17 MR. de BIE: If I may, Member Washington.
18 There's a couple factors that led to this permit coming up
19 in the timeframe it did prior to full compliance with gas.
20 One is that the LEA was evaluated, and part of their
21 workplan addressed the need to get this '89 permit updated
22 and to reflect the current situation at the landfill to
23 get a permit in place that was effective in addressing the
24 current operations of the landfill. The current permit is
25 outdated and is not very effective in addressing the

1 situation at the site, recognizing, you know, current
2 operations there.

3 And so to some extent Board staff had encouraged
4 the LEA and the operator to move forward in getting this
5 permit forward. Knowing that to do so prior to full
6 compliance with the gas situation is not the best of
7 combinations. But realizing that the Board had allowed
8 the long-term gas violation policy to remain in place as a
9 tool to effect these permits, so we felt that we could
10 bring it forward at this time.

11 Certainly, if the item was deferred until there
12 was full compliance with gas, the net result would be that
13 you would continue to have an outdated permit that does
14 not reflect the reality of the situation, does not reflect
15 the CEQA analysis that was conducted for the site in terms
16 of operating level and what it's currently doing or it
17 would be allowed to do in the future.

18 So I think part of what staff does and I know
19 what the Board does is to weigh those two, whether having
20 an updated permit weighs equally with a continuing problem
21 or if one weighs more than the other.

22 COMMITTEE MEMBER JONES: Mr. Paparian.

23 CHAIRPERSON PAPARIAN: Mr. Jones.

24 COMMITTEE MEMBER JONES: You know, we've got
25 an -- I understand the concerns of the members and I

1 understand my concerns with a policy. I mean we have a
2 policy. We have an updated policy that, truthfully, I
3 thought was the policy we were going by. Irregardless of
4 this one -- this one exceeds what our second policy was.
5 And we did that for a very simple reason. If you leave
6 this permit or any permit stagnant, then all of the things
7 in that permit to address changing conditions, whether
8 it's population growth or whatever, would -- you'd put an
9 operator into a stagnant mode where they'd never be able
10 to address the concerns of the community.

11 This is the only landfill in this county. I
12 mean -- I think it's the only landfill in the county,
13 right?

14 MR. ABBS: Yes.

15 COMMITTEE MEMBER JONES: And they've done
16 everything according to our policies, you know. I mean we
17 set up the rules. We don't always stand up and say
18 they're our rules, you know. Sometimes we wait and see
19 who's upset about them. But they're our rules, and people
20 have to rely on that. LEA's have to rely on that rule.

21 To backpedal and say, "Well, I'm not sure. You
22 know, maybe we could hold up," that's wrong. I mean this
23 guy did -- or this jurisdiction did everything that they
24 were supposed to do, as did our staff.

25 And I understand the concerns, and they're valid.

1 Your concerns are valid. But the fact that this operator
2 put in a system that's taken that kind of draw, it works.

3 I'm prepared to move the motion, Mr. Chair --
4 move the resolution.

5 CHAIRPERSON PAPARIAN: Before you do that, Mr.
6 Jones, I just want to kind of get a sense of where we're
7 at, and what the best way might be to resolve this.

8 I'm sensing you support this.

9 COMMITTEE MEMBER JONES: And the LEA's.

10 CHAIRPERSON PAPARIAN: Mr. Washington, you've
11 still got concerns with this?

12 COMMITTEE MEMBER WASHINGTON: That's right.

13 CHAIRPERSON PAPARIAN: For myself, I have raised
14 issues of long-term gas violation in the past. I was very
15 concerned when the legislative auditor questioned the
16 legality of our long-term gas violation policy. I've
17 objected to a different permit based on gas issues. Yet I
18 was comfortable moving forward, as we directed last
19 August, with the Jones-Roberti proposal.

20 I think that this operator seems to be doing
21 everything that they can do, including making a binding
22 commitment about what happens if the system that they have
23 in place currently doesn't work, the additional steps that
24 they will take to address the issues if it doesn't work.

25 So where I'm at is, I want to be sure that what

1 we have before us is consistent with what I think is the
2 more legal approach that we put forward in August with the
3 Jones-Roberti proposal.

4 And I'm not -- I want to take a look at that more
5 carefully. So for that reason I'm not ready to support,
6 I'm not ready to opposed today. I would be prepared to
7 move it forward to the full Board. And I'd like to get
8 that additional bit of information, which would make me
9 more comfortable that what we're doing is consistent with
10 the law and the law that says that we shall only approve
11 things if they're consistent with state minimum standards
12 as is -- on the Board right now.

13 Ms. Peace, do you want to add anything or is
14 this -- it's sort of trial by fire here in the first
15 meeting.

16 COMMITTEE MEMBER PEACE: It sounds to me they've
17 done everything that we've asked them to do. They have a
18 contingency plan. What more could we have them do other
19 than, you know, deny it? I don't we should do it. I
20 think they've done everything they can do. They have a
21 contingency plan in place. And I think we should approve
22 it.

23 CHAIRPERSON PAPARIAN: Okay. So if we move
24 forward -- just stating the obvious here, if we were to
25 move forward on a 2 to 1 to 1 vote, mine being an

1 abstention -- I guess we could do that. Or we can move it
2 forward at this point without a full recommendation and
3 explain it to the Board.

4 If you want to go ahead and make the motion, Mr.
5 Jones, that will be entertained then.

6 COMMITTEE MEMBER JONES: I do want to make the
7 motion because I think it's important that we don't, you
8 know -- that we do that.

9 The one thing though that I -- and I can
10 appreciate everybody's concerns. But when Ms. Tobias said
11 that the policy -- that the statute says that they are in
12 compliance -- they're deemed in compliance when they have
13 done these types of actions, right, they're under a
14 compliance order, they are fulfilling the compliance
15 order, they've built the system? That, Ms. Tobias, was
16 your answer to the -- I mean this meets state minimum
17 standards because of -- I mean that's how I understood you
18 to say -- it meets state minimum standards because of
19 those actions, correct?

20 CHIEF COUNSEL TOBIAS: That's correct.

21 I might also point out that the main problem with
22 the Board's previous long-term gas violation policy was
23 the fact that it was a policy and not a regulation.

24 So although I think the Board did change it
25 somewhat in reconsidering it to adopt as regs, the

1 previous problem was not that there was a problem with the
2 approach. The problem was was that it was a policy and
3 the Board hadn't adopted it as regulations.

4 CHAIRPERSON PAPARIAN: I'd have to double check
5 with the auditor's report. But I think Betty raised the
6 question about whether a policy that allowed a facility to
7 move forward that was in violation of state minimum
8 standards was legal.

9 CHIEF COUNSEL TOBIAS: I think they did raise
10 that. It would be my opinion based on our state minimum
11 standards and the fact that we have that compliance review
12 for the type of violation that cannot be resolved in an
13 immediate fashion was that those -- that that is in place.

14 So I think you're right, they did question that.
15 But it's my legal opinion that the Board was in good shape
16 on that.

17 CHAIRPERSON PAPARIAN: More often than not I
18 agree with your legal opinions and appreciate and solicit
19 them.

20 But In this case I do have some remaining
21 questions.

22 CHIEF COUNSEL TOBIAS: You know, I think that
23 certainly at the Board meeting we can bring this back. We
24 can have the overheads that show where we are in those
25 policies and everything. So I think bringing it back to

1 the Board meeting, it would give us the opportunity to do
2 that.

3 CHAIRPERSON PAPARIAN: And again for the staff,
4 one of my big issues is to look at what Jones and Roberti
5 brought forward in August. And I want to be sure that if
6 I were to vote for this facility, that it's consistent
7 with what Jones and Roberti brought forward in their 9 or
8 10 items.

9 MR. de BIE: If I may, just a clarification. So
10 if we brought those 9 or 10 items, and the best we
11 could -- again they're very general, generic, no detail --
12 compare and contrast with this particular site, is that
13 something you're looking for? Or is it to go through what
14 this operator and site has done and what they might be
15 required under those concepts, sort of have a discussion
16 of how they lay out?

17 CHAIRPERSON PAPARIAN: I don't think I'm looking
18 for a PowerPoint presentation. But I think there was --
19 if I recall correctly, there were some general items and
20 some specific items in there about how things are handled.
21 And recognizing that some may be too general to apply,
22 there were some specific items about how to handle a
23 situation like this.

24 So I may go back and look at the transcript too.

25 So I guess what I'm asking for -- you know, I

1 don't know about other members. Maybe we can just discuss
2 this separately from the meeting or before the meeting.
3 And if other members desire a more elaborate presentation,
4 that would be fine too. But for my purposes, I want to
5 understand what we did in August and make sure that what
6 we're doing now is consistent with what I view to be the
7 more legal approach to dealing with a long-term gas
8 violation.

9 MR. de BIE: Okay.

10 COMMITTEE MEMBER JONES: Mr. Paparian.

11 CHAIRPERSON PAPARIAN: Mr. Jones.

12 COMMITTEE MEMBER JONES: I'm not going to make a
13 motion. Just send the thing to the Board meeting with all
14 of us. It's -- you know, we'll just here it at the full
15 Board meeting.

16 COMMITTEE MEMBER WASHINGTON: Mr. Chair.

17 CHAIRPERSON PAPARIAN: Mr. Washington.

18 COMMITTEE MEMBER WASHINGTON: If I could just say
19 this. It's not just Red Bluff or -- if I was any of these
20 landfill operators -- was LEA's, I would be concerned that
21 you come to this Board and the Board has you all over the
22 map when your item come up because there's nothing set in
23 stone as to the regulations, or is it policy or is it
24 regs. I would be concerned if I was any of you guys out
25 there.

1 Somewhere we need to get to a point where this is
2 the policy, now from two years ago but the present policy.
3 This is what exists. We need our staff to put these
4 things together so we can operate based on what we're
5 trying -- the Chair is sitting here telling me that they
6 asked for something six months ago and that two members of
7 this Board went to work on it, put it together, and we're
8 still operating on a quasi -- we have to work on the old
9 because the new has not kicked in yet.

10 And so I think that all of you guys should be
11 concerned that when you come before this Board, that these
12 are the type of issues that are going to come. Even if
13 it's your item, it's not so much a prejudice towards you,
14 but it's to address the issues that are before this Board.
15 And that's where I'm coming from. We need to put
16 something in place here, not based on what we thought it
17 was supposed to be or what we think it should be. What is
18 the policy -- what is the regs set forward that this Board
19 have in place?

20 CHAIRPERSON PAPARIAN: Okay. Any other comments?

21 So what we'll be doing is moving this forward to
22 the full Board without a recommendation from this
23 Committee. I think my information request is the only
24 outstanding one related to this item.

25 And, again, the options for us at the Board

1 meeting are basically to support and issue the permit, to
2 deny the permit based on the items that Ms. Tobias laid
3 out. Or if we fail to do either, the LEA would then have
4 the option to issue the permit within a short period of
5 time.

6 So we'll move this item forward to the full Board
7 without a recommendation from the Committee.

8 I hope that's -- do we need to clear up anything
9 else with regards to this item?

10 Okay. Thank you.

11 And thank you Mr. Abbs and...

12 Mr. Jones is asking for a break.

13 We'll take a five-minute break at this point.

14 (Thereupon a recess was taken.)

15 CHAIRPERSON PAPARIAN: Okay. If we can come back
16 in the room here -- I know there's some folks still
17 straggling back in -- we'll get started again.

18 That last item took a little bit longer than we
19 anticipated.

20 I'm told that the Fresno County LEA, I believe it
21 is, has to get back to Fresno for obvious reasons
22 involving the situation down there.

23 So I want to suggest a couple things, members,
24 with the agenda. One is that we go forward with the
25 Crippen fire item first in order to allow the LEA to deal

1 with their business back in Fresno. The LEA also has one
2 other permit item before us today. So perhaps --

3 ACTING DEPUTY DIRECTOR WALKER: Pardon me. But
4 that one will be okay because Tim Casagram is, who's the
5 director, has his staff here to cover for that permit.

6 CHAIRPERSON PAPARIAN: Okay. Well, then this
7 will probably work better.

8 So my suggestion is going to be that we take
9 first the Crippen item. Then because of some of the
10 concerns Mr. Washington has raised about this morning, I
11 think it may be more appropriate to do the public
12 participation item before we do any other permits. And
13 then after the public participation item, go back and go
14 into the correct order with our permits.

15 If we do it in this way, the Crippen fire item,
16 then the public participation item, then the permits, is
17 that going to unduly inconvenience anybody who was here
18 for any particular item?

19 Okay. Looks like we're okay.

20 So, all right, we'll go forward with the -- oh,
21 I'm sorry. Thank you, Mr. Washington.

22 Any ex partes?

23 Mr. Jones.

24 COMMITTEE MEMBER JONES: Yeah, Richard Caglia
25 from Industrial Waste and Salvage, Orange Avenue Disposal.

1 Chairperson PAPARIAN: Ms. Peace.

2 COMMITTEE MEMBER PEACE: No, I don't have any.

3 CHAIRPERSON PAPARIAN: Mr. Washington.

4 COMMITTEE MEMBER WASHINGTON: Yes. Mark Aprea,
5 just discussion greetings and talking a little bit about
6 the C&D regs.

7 CHAIRPERSON PAPARIAN: And I had none.

8 Okay. So with that, we'll go forward.

9 ACTING DEPUTY DIRECTOR WALKER: Thank you.

10 Item G is ratification of emergency action and
11 consideration of approval of the Archie Crippen Site,
12 Fresno County, for the Solid Waste Cleanup Program.

13 Scott Walker, Permitting and Enforcement
14 Division.

15 The purpose of this item is to consider the
16 ratification and approval of the Board Chair's direction
17 to expend funds for emergency assistance at the Crippen
18 site, pursuant to the Solid Waste Cleanup Program or AB
19 2136 Program.

20 Before proceeding I would like to acknowledge key
21 staff on this project to have really risen extremely well
22 to meet the challenges of this case.

23 Our main guy is Todd Thalhamer in the field. And
24 he's our fire expert. And he's still working out there.
25 And so he obviously deserves a tremendous amount of

1 appreciation.

2 But I also want to acknowledge a lot of other
3 staff behind the scenes, including Wes Mindermann,
4 Virginia Rosales, Mark de Bie, Sue Markie, Albert Johnson,
5 Steve Levine, and Michael Bledsoe.

6 We have also had excellent collaboration with
7 CalEPA Agency and boards and departments and also many
8 other agencies involved.

9 EXECUTIVE DIRECTOR LEARY: Scott, if I might.
10 Let me add the name Frank Simpson to that list of people
11 who have been involved.

12 ACTING DEPUTY DIRECTOR WALKER: Oh, I'm sorry,
13 Frank.

14 EXECUTIVE DIRECTOR LEARY: Well, that's okay.

15 ACTING DEPUTY DIRECTOR WALKER: I take you for
16 granted sometimes, but --

17 EXECUTIVE DIRECTOR LEARY: We all do. But he was
18 there late into the night.

19 ACTING DEPUTY DIRECTOR WALKER: -- we really
20 appreciate Frank's participation too.

21 (Thereupon an overhead presentation was
22 Presented as follows.)

23 ACTING DEPUTY DIRECTOR WALKER: This presentation
24 will include the following: I'm going to give you a brief
25 overview of the Solid Waste Cleanup Program for the

1 benefit of our new Board members; followed by a chronology
2 of the emergency and the state response, description of
3 the site, summary of the cleanup project and cost
4 estimates, and then implementation of the enforcement and
5 cost recovery actions.

6 The Solid Waste Cleanup Program, or it's also
7 referred to as AB 2136 Program, assists in the clean up of
8 solid waste disposal and codisposal sites where
9 responsible parties cannot be identified or are unable or
10 unwilling to perform timely cleanups.

11 Funding options include Board-managed contractor
12 projects, such as the Crippen emergency response; matching
13 grants and straight grants to local governments; and
14 loans.

15 Staff reviews proposed projects for compliance
16 with approved criteria. Projects meeting approved
17 criteria are brought forth on a continuous basis to the
18 Board for consideration of approval.

19 Since inception in 1994 the program has cleaned
20 up approximately 200 sites, including many of the most
21 egregious and intractable cleanup and enforcement cases we
22 face.

23 Especially for the benefit of new Board members,
24 staff is planning to bring a discussion item in the near
25 future to provide a more thorough overall summary of the

1 program, what it does, and its accomplishments.

2 --o0o--

3 ACTING DEPUTY DIRECTOR WALKER: A chronology of
4 the emergency state response.

5 On January 11th, there was an initial response by
6 the local fire department to a fire at the Archie Crippen
7 site. Initially the reports indicated that it was started
8 by spontaneous combustion. There was an effort to get the
9 fire out, both by the owner and the emergency fire crews,
10 and it was unsuccessful.

11 On January 13th, the air district, local -- the
12 San Joaquin Valley Air Pollution Control District issued
13 health advisories, in addition to notice of violations to
14 the property owner.

15 The problem in San Joaquin Valley is an inversion
16 situation whereby air is trapped in the basin at depth
17 from high pressure. And what happens is particulate
18 matter, which is the principal issue, is smoke and other
19 particles, collects and it settles down low to the ground
20 and affects the air pollution in that particular area.
21 It's a chronic problem regardless of this fire, and it's
22 endemic to the San Joaquin Valley.

23 At that point it was clear that there was a major
24 problem here. And there was a substantial expansion of
25 monitoring efforts for air quality monitoring and testing.

1 And this was set up in large part by the Air Resources
2 Board.

3 On January 14th, the fire worsens. Staff
4 informed me late afternoon that Fresno County Local
5 Enforcement Agency requested technical assistance on this
6 case, and requested confirmation from me that assistance
7 will be provided.

8 I confirmed in a telephone conversation with the
9 LEA shortly after that Todd Thalhamer would provide such
10 assistance and get to the site as soon as possible.

11 Todd arrived at the site on the 15th, and
12 assessed the situation with agencies in the field to
13 determine appropriate actions. It was determined that the
14 fire is a complex subsurface landfill-type fire with
15 significant unburned fuel material in deep-seated hot
16 zones. Allowing it to burn out could take months, which
17 was unacceptable. Specialized equipment and personnel
18 would be required to suppress such a fire in an expedited
19 manner.

20 And the Board has had some experience in that
21 with some of our major tire fires.

22 Emergency response agencies determined at that
23 time that they did not have the resources and experience
24 for this type of fire suppression and, therefore,
25 requested assistance from the Board and the Board's

1 contractors.

2 On January 16th, the Board Chair directed the use
3 of Solid Waste Cleanup Program contractors to assist in
4 the fire suppression.

5 In addition, a unified command was established.
6 And this case was identified -- was delineated as the
7 Marks-Nielsen Fire Event.

8 The Office of Emergency Services is the on-scene
9 coordinator for the state. And just to give you a little
10 background on what this type of emergency structure --
11 command structure is:

12 Basically state and local agencies use what's
13 called an incident command system as the structure to
14 manage emergency incidences at the field level. This
15 incorporates a concept of a unified command when emergency
16 incidences involve multiple agencies with jurisdictions.

17 The basic precept of a unified command is that
18 all agencies with jurisdictional responsibility for the
19 incident will manage the incident by establishing a common
20 set of objectives and strategies and develop a
21 consolidated action plan that adequately reflects the
22 jurisdictional needs of the agencies with responsibility.
23 This is accomplished without losing or advocating agency
24 authority, autonomy, responsibility, or accountability.

25 The unified command for this event includes

1 representatives from the state and local fire authorities,
2 the city of Fresno Police Department, the County
3 Environmental Health Department, local air pollution
4 control district, and U.S. EPA.

5 The unified command has tasked the Board's role
6 as heavy operations. The Board also represents CalEPA in
7 the field. Personnel from CalEPA Agency and boards and
8 departments convene very early in Sacramento, and we
9 periodically meet to ensure collaboration and providing
10 any needed assistance.

11 --o0o--

12 ACTING DEPUTY DIRECTOR WALKER: On January 17th,
13 the air district issues advisories due to a peak
14 particulate matter. And this -- the situation is still
15 worsening at this point.

16 On the 18th the Board's contractor starts
17 breaking into pile to start this expanded suppression
18 activity. Now, The Board's contractors, Guinn
19 Construction and subcontractor, Sukut Construction,
20 they're fully mobilized at this point, and they're all
21 appropriately trained and prepared.

22 On the 19th the air quality was reported as
23 significantly improved, but the particulate matter was
24 still a hazard in particular -- a localized hazard in
25 certain areas that basically would -- it would basically

1 come into a certain area and then dissipate and move in.

2 And it was fairly erratic.

3 Hazardous air pollutant testing was completed and
4 reported at this time. And fortunately the results showed
5 concentrations not at levels constituting a public health
6 concern. Unified command has a health team which provides
7 public health advisories with guidance and information to
8 the public for the issue that's a health concern here,
9 which is again airborne particulate matter, which was
10 basically the smoke that comes off of this burning waste
11 pile.

12 On January 23rd, the city and county declared in
13 a public hearing a local emergency. They also conducted a
14 townhall meeting on the 23rd, to address tremendous public
15 concerns about the situation.

16 On the 28th the emergency fire suppression
17 project was proceeding quite well. And it was reported
18 around 70 percent of the suppression was complete. In
19 addition, testing of pond water from the fire suppression
20 activities by the Water Board showed no significant levels
21 of hazardous constituents.

22 On the 30th the fire worsened. Essentially there
23 were some deep fire zones that were found. And they are
24 delaying suppression right now and for at least 7 to 10
25 days, hopefully the end of Friday. But this type of

1 situation is dynamic and so we're continuing to keep
2 apprised of it.

3 I have a couple photos just to show you a little
4 bit of the situation.

5 This shows you the pile, and it illustrates the
6 problem with the smoke and particulate matter and the
7 emissions that come off of this waste pile.

8 --o0o--

9 ACTING DEPUTY DIRECTOR WALKER: Here's another
10 photo showing an area of intense smoke formation in the
11 suppressing -- attempting to suppress this fire.

12 CHAIRPERSON PAPARIAN: Scott, does the 21 there
13 indicate this was taken on the 21st?

14 ACTING DEPUTY DIRECTOR WALKER: Yes. This
15 illustrates an example of the situation of smoke that's
16 ongoing until the fire is completely out.

17 --o0o--

18 ACTING DEPUTY DIRECTOR WALKER: This is the deep
19 fire zone. It's called the worm hole, the gates of hell.

20 (Laughter.)

21 ACTING DEPUTY DIRECTOR WALKER: Mouth of the
22 dragon.

23 And this is the type of thing that they
24 encountered on Thursday. And what you end up having to do
25 is to continue to follow these things and try to

1 completely extinguish them. This is the difficulty that
2 you have with this type of fire. Extreme difficulty.

3 --o0o--

4 ACTING DEPUTY DIRECTOR WALKER: Description of
5 the site. The description is based on observations
6 reported by Todd Thalhamer and a site visit conducted last
7 Wednesday by Sue Markie of our EA staff -- EA Program
8 staff, and Wes Mindermann, and in additional pre-fire
9 observations and data compiled by Permitting and
10 Inspection Branch staff.

11 The Archie Crippen site is located in southwest
12 Fresno near the intersection of Marks and Nielsen Avenues.
13 The Surrounding land use includes commercial, industrial,
14 and open space. There is residential housing including a
15 trailer park within a quarter to a half mile from the
16 site. And demographic information from the 2000 census
17 indicates the local community has a high percentage of
18 minority and lower income residences.

19 There are four distinct areas that are identified
20 on the site.

21 --o0o--

22 ACTING DEPUTY DIRECTOR WALKER: This shows you
23 the fire exclusion zone and the four main areas that were
24 identified.

25 The site includes multiple parcels. And The

1 total is approximately 50 acres. There's a main 12-acre
2 parcel and a 40-acre parcel also where operations have
3 gone on.

4 --o0o--

5 ACTING DEPUTY DIRECTOR WALKER: The fire
6 exclusion zone. Based on a resent GPS survey, the main
7 waste pile under the fire exclusion -- fire exclusion
8 restricts entrance in or near the area because of the
9 hazardous conditions.

10 So our ability to really see what's going on
11 there is primarily based on observations of Todd Thalhamer
12 and the contractors.

13 This pile covers about 4.9 acres and a height --
14 average height of 10 to 20 feet, reports of up to 25 to 30
15 feet in some places. The estimated volume in the field
16 is, therefore, between 80,000 and 160,000 cubic yards.

17 There are also two processing zones that are
18 located within and on -- kind of on either end of the
19 exclusion zone.

20 --o0o--

21 ACTING DEPUTY DIRECTOR WALKER: This takes a look
22 at some of the material after it's burned over. And
23 material in the exclusion zone consists mainly of wood
24 and -- wood from building demolition sources, inert,
25 debris, concrete, asphalt and soil. There's also some

1 stumps and wood from trees, and scrap metal from various
2 sources. Plastic pipe, roofing materials, carpet and
3 mattress furnishings, and other construction demolition
4 debris materials are occasionally observed, but generally
5 rare to find.

6 Two auto bodies have been reported in addition to
7 other recognizable metal auto parts. And tires -- really
8 there's just been a few tires that have been found. Not
9 really been seeing tires in this.

10 Identification of painted or treated wood is not
11 being reported. Hazardous materials and waste are
12 fortunately also not being found, except for one report of
13 a computer monitor. And also they bumped into a propane
14 tank last week and had to deal with the hazardous nature
15 of that in terms of explosion hazard.

16 --o0o--

17 ACTING DEPUTY DIRECTOR WALKER: Takes another
18 look at the material. Quite a bit of soil.

19 --o0o--

20 ACTING DEPUTY DIRECTOR WALKER: And this shows a
21 little closer shot of -- with some fire zones of the
22 material, showing it's predominantly wood.

23 --o0o--

24 ACTING DEPUTY DIRECTOR WALKER: This is one of
25 the processing areas in the main zone. And essentially

1 the water you see is from the wash down from the fire and
2 it's been collected and burns around the site. That's the
3 water that's been tested by the water board and is also
4 under a management plan for the liquids.

5 --o0o--

6 ACTING DEPUTY DIRECTOR WALKER: This is the
7 wood -- we'll get into the wood processing area now, which
8 is another zone in the site that we encountered.
9 Essentially fairly clean wood area with a relatively small
10 amount of the chip process material. 3100 cubic yards of
11 unprocessed material. A lot of soil in this area.
12 Railroad ties, telephone poles, and other materials that
13 were segregated.

14 --o0o--

15 ACTING DEPUTY DIRECTOR WALKER: This takes a look
16 at some of that material from that area.

17 Again, this is outside of the fire exclusion
18 zone.

19 --o0o--

20 ACTING DEPUTY DIRECTOR WALKER: The next area is
21 the inert and metal processing area. And again there's --
22 essentially this is where they're crushing and processing
23 mainly concrete. A Lot of metal in this area too.
24 There's been identification of white goods, some old metal
25 appliances, refrigerators, stuff like that have been

1 found.

2 Quite a bit of metal, and then some other
3 material that's stockpiled for processing.

4 --o0o--

5 ACTING DEPUTY DIRECTOR WALKER: This is another
6 shot of it. This is adjacent. This is the white goods
7 that were found adjacent to that location.

8 --o0o--

9 ACTING DEPUTY DIRECTOR WALKER: This is a
10 concrete material stockpiling and processing for crushing.

11 CHAIRPERSON PAPARIAN: Just a question on that
12 concrete material there. Go back -- if you can go back.

13 That looks like it might have come from a public
14 works project. I'm not -- do you have any idea?

15 ACTING DEPUTY DIRECTOR WALKER: I think that
16 there is an investigation ongoing related to the
17 enforcement. And I think they're looking at -- we are
18 looking at where a lot of this material comes from. And
19 we certainly expect that a lot of this we'll be able to --
20 through review and inspection of records, to determine
21 where the source is. And certainly this type of material
22 very well likely came from public works projects.

23 CHAIRPERSON PAPARIAN: Okay.

24 --o0o--

25 ACTING DEPUTY DIRECTOR WALKER: Next area is the

1 north C&D processing area. Again, this is another area
2 very similar -- somewhat similar to the first, except here
3 you see fairly significant amount of residual material
4 that's been removed, processed, that is essentially --
5 would require disposal.

6 --o0o--

7 ACTING DEPUTY DIRECTOR WALKER: This is
8 essentially about 500 cubic yards of residual solid waste.
9 And this is the type of material -- foam, plastic, you see
10 a tire in the foreground frowned. No putrescibles. We
11 just don't see putrescibles in this.

12 --o0o--

13 ACTING DEPUTY DIRECTOR WALKER: There's another
14 close-up of the residual material for disposal.

15 --o0o--

16 ACTING DEPUTY DIRECTOR WALKER: Here's some of
17 the wood material that's in the unprocessed area of that
18 zone.

19 --o0o--

20 ACTING DEPUTY DIRECTOR WALKER: This is a little
21 close up of it. Wood, metal primarily.

22 --o0o--

23 ACTING DEPUTY DIRECTOR WALKER: This is some fine
24 soil in that area. There are piles in processed areas of
25 soil on the site, quite a few.

1 --o0o--

2 COMMITTEE MEMBER JONES: Mr. Paparian.

3 CHAIRPERSON PAPARIAN: Mr. Jones.

4 COMMITTEE MEMBER JONES: Mr. Walker, if you back
5 up. That's not grass clippings there. That's grass
6 growing out of the pile.

7 ACTING DEPUTY DIRECTOR WALKER: Correct.

8 BOARD MEMBER JONES: You've got that all over. I
9 mean -- I didn't point it out earlier. But I think it's
10 important that everybody understands that those four or
11 five photos that showed green material was because it had
12 grown out of the pile, which means there is no movement.
13 That stuff is sitting there.

14 ACTING DEPUTY DIRECTOR WALKER: Yes, there's
15 large areas that have obviously been there for
16 considerable amounts of time and have not moved, and --
17 that's correct. A lot more extensive than this particular
18 pile. Where there's been areas where grass and weeds are
19 growing on it, that would indicate they have been there
20 quite a while.

21 COMMITTEE MEMBER JONES: Yeah. Thanks.

22 ACTING DEPUTY DIRECTOR WALKER: Summary of the
23 cleanup projects and the cost.

24 The Board's emergency clean up project involves
25 using heavily equipment and specialized crews. They

1 basically carefully excavate out hot zones from the waste
2 pile and then extinguish them with foam and water.

3 Thermal sensing equipment has been used,
4 including from helicopter aerial type to try to identify
5 where these zones are in the main fire area. It's very
6 irregular.

7 And the crews are working 10 to 12 hours per day
8 and 7 days a week. And I want to just stress that in this
9 particular case health and safety is paramount. And it's
10 very complicated for this project. And it really requires
11 a lot of training and preparation and really
12 state-of-the-art equipment, which this job has, and has
13 worked quite well so far.

14 The fire suppression phase is Phase 1. That's
15 what we're in progress on right now. Upon completion,
16 where they've gone through the pile hot spots, they've
17 gotten that fire out, the site will be stabilized, which
18 is Phase 2. And this is where they basically segregate
19 the piles in areas, they flop them over, and they keep
20 them in a -- they grade them to the point where you can
21 leave it there for a while and it's in good shape for
22 monitoring.

23 In addition, in Phase 2 there'll be a sampling
24 analysis plan to characterize those waste piles, to see if
25 there's anything in there, any hazardous constituents or

1 not.

2 Based on the material that we see so far, we
3 don't expect anything. But you never -- you don't know
4 until you actually go through and do a very systematic
5 sampling and analysis plan of those piles. And that is
6 being done and coordinated with all the agencies.

7 The Board essentially would continue work in to
8 Phase 2. But it is anticipated that the U.S. EPA is
9 actually going to take on the bulk of Phase 2. Actually
10 U.S. EPA has brought on two large excavators on the site,
11 so they are participating in Phase 1. And So we're
12 hopeful that they can take on more and take over Phase 2
13 and allow us to demobilize. But, again, that is subject
14 to the unified commands task unit.

15 After the unified command is disbanded and Phase
16 2 is complete, oversight responsibilities would revert to
17 the local agencies, involve monitoring and control. And
18 there's talk about temperature monitoring to make sure the
19 fires don't come back. And various things like that that
20 would occur to keep that site, you know, monitored and in
21 a stable condition.

22 The long-term final cleanup phase, Phase 4, may
23 be necessary in the future. But any participation of
24 Solid Waste Cleanup Program is outside the scope of this
25 emergency project and would be subject to separate Board

1 consideration.

2 The summary of Board costs -- labor, equipment,
3 and subcontractors -- as of the end of Sunday is \$512,000.
4 And we project that through the end of this Friday and it
5 would be up to about \$684,000.

6 I'm prepared to answer questions about the
7 condition of the contracts and the trust fund. But at
8 this point I would basically tell you that we are in good
9 shape, we're in good shape in the long run. And so we
10 feel confident that we could address our needs in the
11 emergency part of this project.

12 --o0o--

13 ACTING DEPUTY DIRECTOR WALKER: Now, getting into
14 just a couple slides showing what our contractors are
15 doing. This just illustrates the equipment that helps
16 them move through a pile into areas with dozers and
17 excavators and carefully digging out these hot zones and
18 then extinguishing them.

19 This picture's from a helicopter.

20 --o0o--

21 ACTING DEPUTY DIRECTOR WALKER: This illustrates
22 the hazardous conditions. Note the smoke and note the
23 situation with the excavator. And these crews are --
24 they're monitored for health and safety. Our crews wear
25 self-contained breathing apparatuses. And it's a pretty

1 well planned and implemented project.

2 --o0o--

3 ACTING DEPUTY DIRECTOR WALKER: This
4 illustrates -- this is where the fire worsened here late
5 last week. And it shows the proximity to flare-ups that
6 could occur at any given time.

7 --o0o--

8 ACTING DEPUTY DIRECTOR WALKER: Enforcement and
9 cost recovery actions are being implemented. However, in
10 anticipation of litigation, those aspects would be
11 discussed in closed session.

12 --o0o--

13 ACTING DEPUTY DIRECTOR WALKER: In conclusion,
14 staff have determined that this project meets all
15 applicable Solid Waste Cleanup Program criteria. And
16 staff hereby recommends adoption of Resolution 2003-86,
17 approving the Crippen site for emergency cleanup action.

18 I'm available to answer questions, in addition to
19 other staff. And also Fresno County LEA, Tim Casagram, is
20 here to provide testimony and answer questions.

21 And Tim is part of the unified command. So
22 that's why, you know, we need to get him back. We bumped
23 this item up because he needs to get back out there,
24 because they're still putting out this fire.

25 Thank you.

1 CHAIRPERSON PAPARIAN: Before we have questions,
2 I wonder if you want -- Tim, if you want to come forward
3 and offer anything.

4 MR. CASAGRAM: Thank you.

5 As Scott mentioned, my name's Tim Casagram,
6 Director of Environmental Health of the County, as well as
7 the Office of Emergency Services for the County. So on
8 this particular incident we have several hats that we're
9 wearing -- or at least I'm wearing on the unified command
10 system.

11 As Scott mentioned, we have a unified command of
12 myself, the city of Fresno, fire chief, and also the U.S.
13 EPA. Under that structure then all the other agencies
14 participate within the incident command system.

15 And there are many agencies participating in this
16 response.

17 I'd also like to thank the Board for their
18 participation of resources and the commitment of resources
19 in this incident. I know Board member Washington and
20 Jones have been down there to see this and the impacts to
21 the community.

22 Not only in the county but in the city of Fresno
23 and Clovis, populations of about 600,000 people have been
24 affected for now going on three weeks.

25 These resources you provided initially have been

1 very helpful in reducing the particulate emissions. One
2 of the main objectives in our incident control or
3 incidents management system was to address the particulate
4 problems of the site emissions.

5 And the assistance that the Board provided with
6 Todd Thalhamer, technical assistance, and the resources,
7 were able to drop those particulates in the first week --
8 understanding it takes two to three days to mobilize that
9 equipment, mobilize the technical experience and to train
10 individuals from the fire department to ramp up to be able
11 conduct an operation such as this -- that Board assistance
12 provided the tremendous amount of particulate reduction.
13 Even though there is fire continuing to move off-site, as
14 Scott mentioned, we're about 70 percent at the site that
15 has been essentially put out or cooled down to where we
16 don't have emissions.

17 It's that other 30 percent right now where we are
18 in the deepest part of this site, deepest part of the
19 pile, that are creating additional emissions that we're
20 trying to control. And U.S. EPA has brought on additional
21 resources, a fire-fighting operation, professional
22 firefighters out of Dallas were called in last week to
23 assist the local fire agencies in fighting this difficult
24 fire.

25 But I can't stress enough the importance of

1 mobilizing state and federal resources in the manner in
2 which we've done here, which to my understanding with all
3 of CalEPA's resources, the State Department of Health
4 resources and the federal government resources hadn't been
5 conducted in California to this extent. So that in some
6 respects we're breaking new ground with respect to how
7 agencies respond. Although to the public it seems that it
8 might be slow response, this is the first time in
9 California that this type of operation has been conducted.

10 So that I want to commend the Board staff for
11 their participation, and certainly the technical
12 assistance in bringing this fire to a resolution.

13 We hope that based on the new resources that have
14 been provided to the site that this week we will get the
15 majority of the particulate emissions and work on just the
16 hot spots and managing the site to get it into what Scott
17 mentioned was Phase 2 and, thereby, reducing the
18 tremendous impacts to the immediate neighborhood as well
19 as the entire population of Fresno and Clovis.

20 If you have any questions, I'd be happy to answer
21 them.

22 CHAIRPERSON PAPARIAN: Questions?

23 Are you -- I take it you're -- you're satisfied
24 with the level of response you've been getting from our
25 agency.

1 Is there anything else that -- is there anything
2 you need that you're not getting, in your view?

3 MR. CASAGRAM: At this point the resources that
4 have been committed to date are adequate for this
5 operation. Throwing more resources, throwing more
6 equipment, throwing more personnel would be a site safety
7 issue. We're back into the part of the pile where there
8 are some site constraints, there's not a lot of room where
9 we're at. And so throwing more equipment in on this
10 project will not be advantageous to the operation.

11 There are significant health and safety
12 constraints when you have four large pieces of equipment,
13 heavy bulldozing operations, and people with hose lines
14 fighting the fire. And it's extremely important that we
15 maintain safety on this project. And that is a primary
16 concern with the unified command. So throwing more
17 resources at this point might not get us anywhere from the
18 standpoint of expediting the fire suppression.

19 We believe that we've got the adequate resources.
20 It's just time consuming to pull this fire apart, bucket
21 by bucket, put the material out, and then move it and
22 organize it in a manner that you can stabilize the site.
23 That's where we're at right now. We expect another few
24 days of that.

25 CHAIRPERSON PAPARIAN: Mr. Washington.

1 COMMITTEE MEMBER WASHINGTON: Yeah, just a couple
2 of brief questions for you. In terms of this particular
3 site prior to the fire, has the LEA ever did an inspection
4 of this particular site? I think I might have asked you
5 out at the site about that. Has there ever been an
6 inspection of this site? And if you do one, I mean -- I
7 guess what I'm trying to say is, if the answer is no, then
8 is there a reason why you didn't do it? Was the permit
9 given to him, suggested that he didn't have to have any
10 site visits or inspections?

11 MR. CASAGRAM: Well, as you know, this site in
12 addition to several other sites in the area exist --

13 COMMITTEE MEMBER WASHINGTON: Right next door.

14 MR. CASAGRAM: Next door, which is -- I might
15 add, that site next door, which is owned by the city, has
16 been given a notice of violation because they are not
17 processing anything there.

18 There is also a site next door which has a valid
19 exemption from a permit from this Board as an inert
20 disposal site. And that -- and he is operating under our
21 inspection program.

22 This particular site, over the years we have
23 received complaints regarding the processing of wood
24 material outside of what is believed to be their
25 conditional use permit.

1 Our staff had brought in the city code
2 enforcement, who are responsible for ensuring that the
3 conditions of approval of the CUP are being met. And it
4 was the city's determination that it was within the
5 conditional use permit that was granted by the city.

6 Outside of that, we have been anticipating and
7 hoping for C&D regulations that would allow us the
8 jurisdiction and authority to inspect this type of
9 facility on a regular basis.

10 Where we have received complaints, we have
11 forwarded them on to the city of Fresno. In addition to
12 that we've also received complaints regarding dust, which
13 we have forwarded on to the air pollution control
14 district, and in fact conducted joint inspections with
15 them.

16 CHAIRPERSON PAPARIAN: Mr. Jones, did you have
17 something there?

18 Okay. I have a question. I'm not sure if it's
19 for you or for Scott. It's probably for Scott.

20 Do we have any information indicating that
21 diversion credit was granted for any of the material going
22 into the facility?

23 ACTING DEPUTY DIRECTOR WALKER: You know, I have
24 to look into that. I don't have that information. I
25 don't know if Tim could add anything to that.

1 MR. CASAGRAM: To be honest with you --

2 ACTING DEPUTY DIRECTOR WALKER: We have to check
3 with DPLA -- Diversion, Planning, and Local Assistance
4 staff.

5 MR. CASAGRAM: We've been concentrating on
6 putting this fire out. As far as the who did what, when
7 and where prior to, there is a meeting this week. I've
8 asked for state agencies as well as city and county
9 agencies to start to look into those matters.

10 I might add, there's been a task force
11 established by the Mayor of Fresno to look into matters
12 such as this site, zoning issues, conditional use permit
13 processes, regarding the city of Fresno conditional use
14 permit process.

15 That task force, I understand we'll be putting
16 together a report for the Mayor, I believe, towards the
17 end of March.

18 CHAIRPERSON PAPARIAN: Mr. Jones.

19 BOARD MEMBER JONES: Thanks.

20 Mr. Casagram, the -- I'm going to try to stay on
21 this Crippen site. But I just think it's important --
22 you've got other facilities around Fresno County that are
23 popping up that are starting to accumulate this kind of
24 material that right now are out of your purview?

25 MR. CASAGRAM: That's correct.

1 COMMITTEE MEMBER JONES: And those also create a
2 nuisance and a problem?

3 MR. CASAGRAM: We had a site about less than a
4 quarter of a mile from this location where the city of
5 Fresno had fire responses in the month of December. And
6 for which they -- primarily a chipping and grinding
7 facility, where large piles with spontaneous combustion
8 caused fires, which the city, you know, had to go in and
9 make a response on. So there are other sites, C&D type
10 facilities that we're anticipating that once the
11 regulations are approved, we hope, that we'll have an
12 opportunity to look at those in more depth.

13 COMMITTEE MEMBER JONES: Thanks.

14 For Mr. Walker, just a couple of issues.

15 One of the slides showed that pile as being
16 somewhere between 15 and 20 feet tall. I was out at that
17 pile. That pile's the better part of 30 feet, almost
18 three-quarters of the 4.9 acres, which is a little bigger
19 than the 100 yards by 300 yards that we were first told
20 about. Which I can understand the mistake. But that
21 would have been 11,000 cubic yards in that 100 by 300.
22 This is closer to about 130,000 cubic yards -- I mean
23 140,000 cubic yards.

24 That kind of a miss scares me, you know, because
25 obviously it's got something to do with, you know,

1 response.

2 Todd's been doing an incredible job, as have all
3 the city and county folks down there. I know Mr.
4 Washington spent a day there. I spent the morning there.

5 The one person that we haven't really talked
6 about, or the group, is Sukut Construction and Guinn
7 Construction. Guinn Construction actually had the
8 contract, but not the expertise. Mindermann and Thalhamer
9 and whoever else you pulled in, Wes, to figure out how to
10 make sure that Sukut was part of that fire fighting
11 operation was a stroke of brilliance. And I'm sure Mr.
12 Leary had something to do with that.

13 It was a stroke of brilliance because I don't
14 think people in the audience understand the danger of
15 seeing D8's and D9's and, you know, 245 Excavators
16 swinging. Those are all kill zones. Those are all kill
17 zones. So every morning Thalhamer and King Bailey and the
18 others train new firefighters where to keep the water to
19 keep those hydraulic lines cooled down so that they don't
20 become a flamethrower; and how to keep those operators
21 alive.

22 This is not just about C&D regs or who's going to
23 pay for this pile. This is a real tribute to the Waste
24 Board and to all those other organizations that are
25 responding to this. And the public needs to know that.

1 It's a tragedy that this happened.

2 Your report I think was valid that you found out
3 about this at 4 o'clock. I still have issues. You just
4 need to know that. We won't go into that. But I've got
5 issues.

6 And I need to know -- it's not stated in this
7 agenda item. We have had a longstanding -- and I don't
8 know if it's the statute or if it's our policy that this
9 is only -- we've maxed -- we cap our 2136 at \$750,000.

10 And before we start saying we got wiggle room,
11 we've never had wiggle room before. So, you know, I don't
12 mind hearing the truth.

13 ACTING DEPUTY DIRECTOR WALKER: The matching
14 grants are capped at \$750,000. But Board managed are not
15 capped. They're subject to the Board's limits.

16 COMMITTEE MEMBER JONES: But we did have cap --
17 it wasn't unlimited, Scott. There's always been a number
18 on the Board managed.

19 ACTING DEPUTY DIRECTOR WALKER: Yeah, I mean
20 we've -- we've gone up to probably a little over a million
21 dollars on projects before.

22 COMMITTEE MEMBER JONES: All right. This has
23 nothing -- as far as what the total's going to be that
24 you're asking us to approve? I'm not saying that we need
25 to cap it at something less than what its going to cost.

1 But you're dealing with other agencies that are going to
2 contribute. And their level of contribution may be
3 affected if we don't establish what our level is. Now,
4 I've got no problem with you coming back at some other
5 point. But I don't want to leave this without a dollar
6 amount on it so that other government agencies may decide
7 that the Waste Board's going to pay for this entire thing.
8 And that number that you gave was for the Waste Board's
9 expenses. That has nothing do with OES. It's got nothing
10 to do with any of the other boards, with the firefighters,
11 with any of that stuff.

12 It's only the Waste Board contracted stuff. So
13 you know, you need to help me out here, members. I mean I
14 think we ought to put a dollar amount of --

15 COMMITTEE MEMBER PEACE: I'd like to see a dollar
16 amount too. Like you say, we can always come back later
17 and approve more if it's necessary. But if we just leave
18 it open-ended, then how do we know what the local will pay
19 for of the U.S. EPA will pay for, what -- you know, I
20 understand --

21 COMMITTEE MEMBER WASHINGTON: And I guess the
22 question would be, do we know what they've been paid for
23 already besides the resources that they ask --

24 MR. CASAGRAM: If I might add. The U.S. EPA has
25 committed in their action memo \$1.8 million -- \$1.85

1 million for this project.

2 At the present time, understanding that there are
3 state issues, that we felt as unified command that if we
4 can utilize some of those resources in Phase 1, of the
5 fire suppression, bring in additional resources, as well
6 as utilize those same resources of the federal government
7 as part of Phase 2, that it would reduce the state's
8 impact on essentially the Board's funding source.

9 Right now the federal government is committed to
10 utilizing those funds for that purpose. So the decision
11 was made in the unified command to incorporate some of
12 those activities. And as we progress with the fire
13 suppression, to go into Phase 2.

14 COMMITTEE MEMBER JONES: But, Mr. Casagram,
15 doesn't it make sense that we have a dollar amount? I
16 mean I don't care we have to come back. But I mean we
17 need to have some kind of a dollar amount here.

18 CHAIRPERSON PAPARIAN: Can I just understand
19 that. If we put a dollar -- presumably we do a dollar
20 cap. Am I right?

21 COMMITTEE MEMBER JONES: What I would suggest is
22 that we say under this program with the information that
23 we know as of today the Board is prepared to spend X
24 amount of dollars. I mean -- and you need to tell us what
25 that amount needs to be. Maybe it needs to be a million

1 dollars. Maybe it needs to be \$800,000. I don't know.

2 CHAIRPERSON PAPARIAN: Oh, so it would be an
3 up-to amount?

4 COMMITTEE MEMBER JONES: Right.

5 CHAIRPERSON PAPARIAN: If they reach that up-to
6 amount, would it then take Board action?

7 COMMITTEE MEMBER JONES: Absolutely.

8 CHAIRPERSON PAPARIAN: But what if they reached
9 that up-to -- just my concern, what if they reached that
10 up-to amount and there are still, you know, some flare-ups
11 and other issues where --

12 ACTING DEPUTY DIRECTOR WALKER: Let me make a
13 suggestion.

14 We have \$308,000 left beyond the \$684,000 in the
15 contract.

16 Can't quite see. If Wes is there, yell if I'm
17 not right.

18 MR. MINDERMAN: You're right on.

19 ACTING DEPUTY DIRECTOR WALKER: \$308,000 -- he's
20 telling me I'm okay.

21 We can't really go beyond that. We're scheduled
22 to come back in like May or June with consideration of a
23 new contract.

24 So realistically we can't go any higher than
25 \$992,000.

1 CHAIRPERSON PAPARIAN: Okay. That's -- and I'm
2 just trying to -- I don't have a problem, before you go
3 on, Mr. Jones. But I wouldn't want it to be viewed -- I'd
4 want us to be able to spend the resources necessary to do
5 the job. I wouldn't want a dollar amount be put in there
6 to be viewed as an entitlement, that would then get other
7 agencies off the hook. And I would want to be sure that
8 we're able to deal with other situations that might arise
9 elsewhere in the state.

10 ACTING DEPUTY DIRECTOR WALKER: Yeah. As far as
11 other areas in the state, again we'll be back with some
12 new contracts. We have some projects, but they're not
13 emergency situations and we have some time. As long as we
14 don't have another emergency between now and then, and
15 April or May we'll be fine.

16 CHAIRPERSON PAPARIAN: Anything you want to add
17 to that?

18 MR. CASAGRAM: I might add too that every
19 expenditure, every resource request, every piece of
20 equipment that gets tasked for this operation comes back
21 through the unified command for decision making. And
22 we're very conscious of ensuring that the resources that
23 we're putting on this project are necessary.

24 We're not -- we're conscious of the fact that
25 there are -- there is isn't, you know, a spigot that's

1 just continuing to flow. So I want you to understand that
2 we are ensuring that whatever's necessary for the
3 operation comes back through with consultation with State
4 Board staff, and as necessary.

5 And that is why we are tasking some of these
6 operational issues to U.S. EPA.

7 CHAIRPERSON PAPARIAN: Mr. Jones, if you could
8 think about how you might phrase what you want to add to
9 the resolution in a way that addresses some of the stuff
10 that's just come up.

11 Before we get to the resolution, I have one
12 speaker slip.

13 And I should just note, Mr. Aprea asked me --
14 indicated to me that he had some comments regarding C&D.
15 And he asked me whether it would be appropriate to bring
16 it up in this item or public comment. And I indicated to
17 him I thought it was more appropriate for public comment.
18 But after we hear the one speaker, if you feel obliged
19 because of whatever the speaker might say to get up, I'll
20 certainly --

21 MR. APREA: Mr. Chair, I'll reserve my comments
22 for the public comment period.

23 CHAIRPERSON PAPARIAN: Okay. The speaker slip I
24 do have is from Mark Murray from Californians Against
25 Waste.

1 MR. MURRAY: I think I'd like to do the same. I
2 think it would be more appropriate to save my comments to
3 the public comment period.

4 CHAIRPERSON PAPARIAN: Okay.

5 COMMITTEE MEMBER JONES: Mr. Chair.

6 CHAIRPERSON PAPARIAN: Mr. Jones.

7 COMMITTEE MEMBER JONES: Just a question for Mr.
8 Casagram.

9 Do you see us putting a limit on this somehow
10 hindering your ability to continue to do your job?

11 MR. CASAGRAM: I think based on where we're at in
12 the operation, basically that the operators, the
13 equipment, the fire teams have got a good flow working
14 now, I don't see us ramping up more equipment. So
15 projections as far as the state resources go are more able
16 to be solidified, if you will. So I don't foresee us, you
17 know, getting into a situation in the next few days here
18 where we're going to be tasking more equipment, tasking
19 more resources. So I think projections can be made --

20 COMMITTEE MEMBER JONES: So that \$992,000, which
21 is almost \$400,000 than what's been expended to date,
22 should be enough room to -- it's not going to hinder the
23 things you're doing if it -- I mean we can put into this
24 resolution that -- well, can I ask a question first?

25 CHAIRPERSON PAPARIAN: Go ahead.

1 COMMITTEE MEMBER JONES: Mr. Walker, do we have
2 unencumbered dollars that would be directed towards these
3 contracts? Sometimes we give the contracts out in smaller
4 amounts than what we have the authority to. Is that an
5 issue here, or have we expended -- I mean have we
6 allocated to these contracts all of the dollars that we
7 had the statutory authority to or the legislative
8 authority to?

9 ACTING DEPUTY DIRECTOR WALKER: Yes.

10 Okay. Let me hand it off to Wes.

11 MR. MINDERMAN: Good afternoon, Mr. Chairman,
12 members of the Committee. Perhaps I can give you a little
13 bit of information --

14 COMMITTEE MEMBER JONES: What's your name?

15 MR. MINDERMAN: My name is Wes Mindermann. I
16 have many names.

17 (Laughter.)

18 But my name right now is Wes Mindermann.

19 Let me share a little information with you.

20 Right now we're doing this under contract with Guinn
21 Construction Company. The contract original not to exceed
22 was for \$2 1/2 million. That contract now is fully funded
23 up to the \$2 1/2 million amount.

24 The amount of funds available remaining for this
25 project after we get up to the \$684,000, which we're

1 projecting through, I guess, Friday, which would be the
2 7th, would be about \$302,000. Our current burn rate on
3 our current staffing and equipment levels is \$35,000 a
4 day.

5 So, if you were to say to me, "Wes, use the rest
6 of the funds for that fire," that would get me about 8
7 days past Friday. Now, I'm reluctant to put an end on
8 this thing. Because every time I try to, I get -- you
9 know, it gets extended out because conditions change.
10 Obviously we move through the pile.

11 But I would hope that those 8 days would get us
12 at least through the Phase 1 fire suppression. Right now
13 the date I'm hearing -- and Tim could probably update us
14 more -- is hopefully Friday.

15 COMMITTEE MEMBER JONES: This Friday.

16 MS. MINDERMAN: This Friday.

17 COMMITTEE MEMBER JONES: Which is the 7th, right?

18 MR. MINDERMAN: We hope, the 7th, we hope. And
19 like I said, that's just a projection based on what we
20 know today.

21 COMMITTEE MEMBER JONES: Okay. So if we didn't
22 put a cap on this -- which I'm still leaning on doing --
23 and you didn't have any money in the contract, what would
24 you do?

25 MR. MINDERMAN: Well, I could tell you this.

1 Right now in our current scenario we have two contractors
2 under the Board. The other contract has about a million
3 dollars, which is being held for a project which we want
4 to start this spring. What could happen would be -- I may
5 have to switch contractors or put Guinn under a
6 subcontract to A.J. Diani to keep -- you know, so we don't
7 have to redo the learning curve to, you know, to learn how
8 to put this fire out and switch our crews out. That would
9 be one thing.

10 The Board could also, if they were to direct
11 staff, put more money into that contract. Okay, but
12 there's a certain set of conditions that have to be met to
13 do that.

14 That contract will not expire until May of 2004.
15 So there's another year in time on that contract. You
16 could certainly add funds to that. But there's a certain
17 number of check boxes that have to be --

18 COMMITTEE MEMBER JONES: So do we, Mr. Leary --
19 have we been given the authority -- because that's a \$5
20 million a year funded program through our IWMA.

21 Have we been given the authority to make that
22 allocation of the next \$5 million? The dollars you're
23 talking about right now, Wes, are those 2002-2003 or
24 2001-2002 dollars?

25 MR. MINDERMAN: What I could tell you right now

1 is that this a continuously appropriated trust fund.
2 There is about \$6 million of unencumbered funds in the
3 trust fund. Now, those funds are for new contracts, for
4 grants, for loans, funds the various aspects. So there is
5 funding in the trust fund.

6 COMMITTEE MEMBER JONES: All right. So if you
7 ran out of money at this 992, if the Board -- it would
8 take a Board action anyway for us to augment any of these
9 contracts. We could augment a contract up to 30 percent,
10 right?

11 MR. MINDERMAN: That's the number I've been
12 told, yes.

13 COMMITTEE MEMBER JONES: And we haven't augmented
14 that contract yet?

15 MR. MINDERMAN: No, we have not.

16 COMMITTEE MEMBER JONES: So we have some
17 flexibility. This makes sense then from the standpoint of
18 fiscal responsibility, because these are all the dollars
19 that the Board has allocated to this anyway. Except for
20 the issue that you talked about, which you ought to run by
21 us anyway before you switch it around.

22 MR. MINDERMAN: If I could add just one more
23 thing, is you don't need another variable.

24 COMMITTEE MEMBER JONES: Why not? We've got them
25 all day.

1 MR. MINDERMAN: If we add on our 8 days -- you
2 know, our Board meeting is scheduled for next week. If we
3 add on our 8 days, we could conceivably run out of funding
4 before the Board had a chance to meet to augment the
5 contract -- or direct staff to augment the contract.
6 That's just one thing I want you to be aware of. Because
7 right now at our current burn rate and our current
8 projection through the 7th, if it went past that, we could
9 be past the February Board meeting date, run out of money.
10 And then the options -- I don't know, I'd have to look at
11 the chief counsel and -- say an emergency Board meeting or
12 something along those lines. And I'm not familiar with
13 those requirements

14 CHAIRPERSON PAPARIAN: Why don't we call on
15 counsel at this point.

16 CHIEF COUNSEL TOBIAS: I agree with Mr. Jones
17 that this should have a cap on it. What the Board's doing
18 here is ratify an action that was taken -- that hasn't
19 come before the Board up till now. And I think that there
20 ought to be a cap on it for the Board to consider. I
21 think that if the contract that they're working under only
22 has so much money left in it, I think before they start
23 substituting out contractors and moving the contracts
24 around, that should come back to the Board. So, you know,
25 I think we could deal with this at the Board meeting. And

1 I think to a certain extent the Board just needs to be
2 making its decisions. It shouldn't be made at the staff
3 level.

4 CHAIRPERSON PAPARIAN: I think what Mr.
5 Mindermann was raising though is what if they burn through
6 the money and get to the cap and still have a further
7 need.

8 MR. MINDERMAN: I think what I might recommend,
9 Mr. Paparian, is, you know, at the Board meeting -- you
10 know, hopefully -- it's passed the 7th. It's on the 11th.
11 It's a week from tomorrow. We can certainly update the
12 costs that we expend and how much we would have left, what
13 the current situation is at the site. And then, you know,
14 might recommend that the Committee send this to the Board
15 with a recommendation that there be a cap on it, but staff
16 would provide updated numbers at the Board meeting for the
17 Board's consideration.

18 CHAIRPERSON PAPARIAN: Ms. Peace, did you have a
19 question?

20 COMMITTEE MEMBER PEACE: I guess I am confused.

21 The money that we're putting towards, \$992,000,
22 is that just for fire suppression, or does it go beyond
23 that? And then you've mentioned 1.85 million from U.S.
24 EPA. Was that just for stabilization? Do any of these
25 get overlapped or --

1 MR. MINDERMAN: Well, I can say this -- I'm not
2 familiar with the EPA numbers. I will leave that for Tim
3 to update you on. But the 900,000, plus or minus, that
4 I'm mentioning would probably be for fire suppression. I
5 mean the whole objective that we have here under the
6 unified command, the objective that was presented to us
7 was to suppress the fire to a point where it could be
8 turned over to the local officials to deal with.

9 We're hoping that that will be on the 7th, plus
10 or minus a few days.

11 COMMITTEE MEMBER PEACE: If our obligation really
12 shouldn't go any further than the fire suppression, then
13 the U.S. EPA is going to kick in with money stabilization
14 in the monitoring phases?

15 MR. CASAGRAM: I'm sorry. I didn't hear your
16 question.

17 COMMITTEE MEMBER PEACE: Say that the obligation
18 of the Board is 992,000. Right now that is directed to
19 the fire suppression Phase 1 effort?

20 ACTING DEPUTY DIRECTOR WALKER: It's directed to
21 the Phase 1 fire suppression. And that is the focus of
22 that funding right now, yes.

23 COMMITTEE MEMBER JONES: Mr. Paparian.

24 CHAIRPERSON PAPARIAN: Mr. Jones.

25 COMMITTEE MEMBER JONES: A question for the trust

1 over here.

2 I know it's not 10 days before Board meeting, but
3 I'm not sure exactly what the timing would be, when a --
4 and it probably would have to go through four other
5 committees before it got to the Board. But to augment a
6 contract, an existing contract, does that require 10 days
7 notice? I mean if we have \$6 million worth of authority,
8 didn't we give that authority to the executive directors
9 or did we -- if we take an action and say go ahead and do
10 it, is there a timing issue with -- because this is an
11 emergency, obviously.

12 CHIEF COUNSEL TOBIAS: The Board can hold an
13 emergency meeting in 48 hours if they post it and if they
14 notify the media.

15 COMMITTEE MEMBER JONES: What I'm saying is if
16 this Committee and the Chair and Mr. Medina agreed that at
17 our Board meeting we should have another item, which would
18 be to augment a contract -- I'm not saying to give them
19 the authority to spend that money. That is not my desire
20 at this point. My desire's to keep it at the 992. But if
21 the dollars have been augmented into the contract, then we
22 could put wording in this agreement or in this resolution
23 that basically, if they ran up against no money, that they
24 would run it through a process that all the Board members
25 were comfortable with, similar to what we did to

1 originally allow this to happen and tell the Chair, "Go
2 ahead and do it." You know, if Board members are
3 comfortable with that. But we've got to have the dollars
4 allocated. Otherwise you're looking at another month, I
5 think, you know.

6 CHIEF COUNSEL TOBIAS: What I'd like to see the
7 Board do is notice an emergency meeting before the Board
8 meeting if you'd like to augment the contract or any other
9 actions. So, you know, we could do that. And then you'd
10 have the flexibility to do that, to consider that
11 contract.

12 CHAIRPERSON PAPARIAN: Can I just make sure I
13 understand?

14 Apart from that. If we were to -- if we were to
15 put the cap here and they burn through the whole contract,
16 and we're between Board meetings, would anybody have the
17 authority in the case of an emergency or ongoing emergency
18 to raise that without a Board action?

19 CHIEF COUNSEL TOBIAS: Well --

20 EXECUTIVE DIRECTOR LEARY: I think the answer to
21 that is clearly yes. You've already done it in regards to
22 this. I mean you're ratifying a decision made by the
23 Chair in consultation with staff to respond to this
24 emergency as you felt was appropriate. And I think
25 that -- unless you take a specific action to usurp that

1 authority, I think that authority still exists.

2 CHAIRPERSON PAPARIAN: Okay. So in terms of this
3 resolution --

4 COMMITTEE MEMBER WASHINGTON: In terms of the cap
5 Mr. Chair, Wes just told us that he's burning off 35,000 a
6 day. So if we had 35,000 and we're going to the 7th, that
7 will at least put us at 140,000 that we got to continue to
8 operate because Todd and those guys are still out there
9 operating. So we have to work within a number that makes
10 sense that works for those guys who are continuing to work
11 at least up to Friday, which I just added at about 140.
12 So whatever we do, if you're going to cap it, it has to be
13 somewhere in excess of 140, 170, something of that nature.

14 CHAIRPERSON PAPARIAN: I think the cap that I'm
15 hearing is 992, which would give plenty of extra for some
16 of those contingencies.

17 COMMITTEE MEMBER WASHINGTON: Well, that's fine.

18 CHAIRPERSON PAPARIAN: I think the question is
19 that it's possible that we could use up that whole 992
20 before we would have our Board meeting in March. So I
21 think where Mr. Jones was going was whether we need to
22 take some emergency action to assure that the spending
23 authority is there to go above the 992 if we need it.

24 What I think I heard a second ago was that we
25 could do that, or if it was truly an emergency, the

1 authority may exist apart from an explicit Board action.

2 Ms. Tobias.

3 CHIEF COUNSEL TOBIAS: I'm less comfortable with
4 augmenting a contract without Board action when you do
5 have the ability to have a meeting in 48 hours. I think
6 that the action that the Chair took on expending funds for
7 fire suppression was an emergency and, you know, is
8 plainly defensible.

9 I'd want to consider further whether -- you know,
10 without any other authorization whether the Chair should
11 go ahead and augment the contracts. When we can notice a
12 meeting in 48 hours, I think that the Board should
13 probably do that augmentation.

14 CHAIRPERSON PAPARIAN: So let me suggest this. I
15 think that the resolution we have before us relates to a
16 specific site. So, Mr. Jones, If you want to suggest
17 wording that would put the 992, or whatever number, in
18 there, I think that would be good. And then we ought to
19 have the emergency notice for the full Board meeting, and
20 that would involve a separate resolution, because that
21 resolution for amount would apply not just for the Crippen
22 site, but it could apply to other sites where emergencies
23 might occur.

24 So we would have this resolution, 2003-86, and
25 we'd have a separate resolution on contract augmentation.

1 Does that work?

2 Mr. Washington.

3 COMMITTEE MEMBER WASHINGTON: Yeah, I guess

4 I'm -- in terms of the emergency board, I think -- I'm

5 going to go back to counsel in terms of this emergency.

6 So if they -- if we spend \$992,000 and they need another

7 50,000, you're suggesting that we have an emergency Board

8 meeting rather than allowing the chair to ratify? I just

9 want to make sure I understand what you're saying.

10 CHIEF COUNSEL TOBIAS: I'm suggesting that what I

11 understand is that there is enough money to get through a

12 certain period. We wouldn't even have to wait till the

13 Board meeting if we could -- you know, you could have a

14 Board meeting within 48 hours. I think that the staff

15 would know whether the money is running out at that time.

16 If they get to a point where they for some reason

17 can't have an emergency board meeting in 48 hours, then I

18 think the Chair would have to decide whether she wanted to

19 do that.

20 I'm recommending that with the staff telling us

21 right now that we're almost at the end of a contract, but

22 with a board meeting coming up with the ability to notice

23 a board meeting in 48 hours, that I would suggest that

24 we've noticed the Board for the 48 hours meeting. You can

25 still have a meeting -- you could notice the meeting

1 tomorrow. If it looked like all of a sudden there's some
2 kind of problem with the fire and you needed additional
3 funds, you could still turn around in 48 hours and notice
4 it for sometime between now and the Board meeting to
5 augment those funds.

6 I'm just suggesting that with the Board meetings
7 coming up, with Committee meetings this week, that the
8 more prudent approach is to have the full Board consider
9 augmenting a contract.

10 ACTING DEPUTY DIRECTOR WALKER: And I'd like to
11 add that essentially I think it would be desirable if the
12 Committee formed it with the recommendation, and then at
13 the Board meeting -- you see, even if we get past the 7th,
14 the most it would be at, unless something extremely
15 unusual would happen, would be 792,000. So at the Board
16 meeting we will at the maximum be at that amount. And so,
17 therefore, at the Board meeting we can determine if the
18 cap's still necessary and establish it at the Board
19 meeting.

20 CHAIRPERSON PAPARIAN: Okay. So what you're
21 telling us is that you can't foresee us going through the
22 whole 992, that Mr. Jones is about to put into the
23 resolution, going through the whole 992 between now and a
24 week from tomorrow, which is when our Board meeting is.

25 ACTING DEPUTY DIRECTOR WALKER: Correct.

1 CHAIRPERSON PAPARIAN: So if we, you know, go
2 forward with having our regular Board meeting, with this
3 resolution on the Board, we'll do that. In addition, on
4 the same day we'll have an emergency Board meeting, which
5 will be noticed quickly, that the emergency Board meeting
6 would happen also on February 11th, and that will be to
7 consider the augmentation above the 992. Is that --

8 COMMITTEE MEMBER JONES: All I was --

9 CHAIRPERSON PAPARIAN: The augmentation of the
10 emergency --

11 COMMITTEE MEMBER JONES: -- of the Guinn
12 contract.

13 CHAIRPERSON PAPARIAN: -- of the Guinn contract.
14 It's not specific to the Crippen site at this point.

15 COMMITTEE MEMBER JONES: Right.

16 CHAIRPERSON PAPARIAN: Does that work?

17 COMMITTEE MEMBER JONES: Yeah.

18 Let me ask you one other question, members,
19 before I make this motion.

20 Yeah, you got -- I agree with everything you just
21 said. We're going to put the money there.

22 But do we want to add in this resolution that the
23 Board is authorizing -- we're ratifying the action not to
24 exceed \$992,000, and also at the same time in this
25 resolution say that future expenditures on an emergency

1 basis for the suppression of this fire, when that contract
2 is funded, would -- that the Board hereby tells the Chair
3 to do that author -- you know, to authorize that future
4 expenditure? That would allow us to make sure the money's
5 in her -- she's going to check with us anyway. And then
6 it's in the resolution that we've ratified a past action
7 and we're giving her authority for a future action.

8 CHAIRPERSON PAPARIAN: A future action for the
9 suppression at this site?

10 COMMITTEE MEMBER JONES: At this site.

11 CHAIRPERSON PAPARIAN: Okay.

12 COMMITTEE MEMBER JONES: Does that make people
13 comfortable?

14 CHIEF COUNSEL TOBIAS: It think that's a very
15 good catch, that there should have been a "whereas" clause
16 on the ratification of her action.

17 COMMITTEE MEMBER JONES: Exactly.

18 Is that okay, Mr. Paparian?

19 CHAIRPERSON PAPARIAN: Okay. Yes.

20 COMMITTEE MEMBER JONES: You okay with that?

21 CHAIRPERSON PAPARIAN: Yes, yes.

22 COMMITTEE MEMBER JONES: All right.

23 Mr. Paparian.

24 CHAIRPERSON PAPARIAN: Mr. Jones.

25 COMMITTEE MEMBER JONES: Now, I need a little

1 help here. Now, you guys do the whereases. I'm going to
2 give you the substance, and you guys figure it out. Okay?

3 You know, I love lawyers.

4 (Laughter.)

5 COMMITTEE MEMBER JONES: I'm going to move
6 adoption of Resolution 2003-86. And in the "Whereas" and
7 other -- for ratification of emergency action and
8 consideration of approval of the Archie Crippen site in
9 Fresno County for the Solid Waste Disposal and Codisposal
10 Site Cleanup Program.

11 In the "Now, Therefore, Be It Resolved" on the
12 third line, where it says, "Site Cleanup Program," "not to
13 exceed \$992,000."

14 Then, add another "Therefore, Be It Resolved,"
15 stating that at this site after the Guinn contract has
16 been augmented, that the Board offers -- or gives the
17 authority to the Chair -- authorized to the Chair any
18 future emergency suppression expenditures in excess of the
19 992 for this Archie Crippen site.

20 Is that -- I know I missed something, but go
21 ahead.

22 CHIEF COUNSEL TOBIAS: No. Is that -- and that's
23 what you'd be putting forward for the emergency meeting?

24 CHAIRPERSON PAPARIAN: No. That would be for
25 this resolution. Separate at the emergency meeting would

1 be the expenditure authority above 992. So what this
2 resolution would do is say that if there's future
3 expenditure authority, we grant the Chair the right to go
4 ahead and spend those monies.

5 Then the emergency meeting would be to create
6 that expenditure authority to go ahead and augment the
7 contract.

8 COMMITTEE MEMBER JONES: Right.

9 Mr. Paparian.

10 CHAIRPERSON PAPARIAN: Mr. Jones.

11 COMMITTEE MEMBER JONES: I think, if I did the
12 math right, we can -- if we do 30 percent, we could
13 augment the Guinn Construction contract, which is what
14 that special meeting's going to be about -- or that
15 emergency, is to augment the income to those funds, right,
16 up to \$750,000, I think; is that --

17 CHAIRPERSON PAPARIAN: We can verify -- you know,
18 those are numbers we can verify.

19 COMMITTEE MEMBER JONES: It's 30 percent. And so
20 I think there was a million and a half dollar contract
21 or -- was it a million? -- 2 million -- it was a \$2
22 million contract. So it would be a little less than 750.
23 Then it would be whatever, 675 or something. But --

24 CHAIRPERSON PAPARIAN: Yeah.

25 So, again, Ms. Tobias what we're saying is the

1 992. And if any other funds become available, we're
2 authorizing the Chair to spend them above the 992, if
3 they're available, for the specific purposes of dealing
4 with this site.

5 CHIEF COUNSEL TOBIAS: If the Board would
6 entertain the suggestion of -- I would suggest that we
7 keep -- the cap be added in here, the 992, but that we not
8 address the additional authority for the Chair until we
9 augment the contract, because it's not really noticed in
10 this.

11 So what I would suggest is we keep the cap in.
12 We need to add a "Whereas" clause that accounts for the
13 fact that the Chair did take this action in an emergency
14 situation. And we would describe the emergency. And then
15 basically say that the board has ratified that.

16 I know that the "Resolution" clause says that
17 we're doing that, but I'd like to see a "Whereas" that
18 describes, you know, when the Chair took action and why.

19 And then I would suggest that the language that
20 you're coming up with now be put into the language in the
21 resolution where we augment the contract. Because right
22 now you don't have any more money to tell her to act with
23 until we have that second item that augments the contract.

24 COMMITTEE MEMBER JONES: Right. But that's what
25 we're saying in the -- what we're saying in this

1 resolution is, I think that Mr. Paparian put it pretty
2 succinctly, that if that Guinn contract is amended -- or,
3 no, with available fund or -- after an augmentation of
4 available funds or something.

5 How did you word that?

6 CHAIRPERSON PAPARIAN: Yeah, let me --

7 CHIEF COUNSEL TOBIAS: After the Guinn contract
8 is augmented and the Board authorizes additional
9 expenditure.

10 CHAIRPERSON PAPARIAN: The point, I mean -- this
11 is maybe getting too nuanced here. But I think your
12 additional "whereas" is fine. But the emergency meeting
13 item will not be specific to the Archie Crippen site. It
14 will be an augmentation that will allow expenditures for
15 emergency cleanups -- or emergency suppressions --

16 COMMITTEE MEMBER JONES: 2136.

17 CHAIRPERSON PAPARIAN: Yeah.

18 -- for emergencies that might occur anywhere in
19 the state.

20 So it almost seems to me better that we deal with
21 the Crippen site in the Crippen resolution, and then deal
22 with the broader authority to spend additional money in
23 its own resolution after the emergency meeting.

24 CHIEF COUNSEL TOBIAS: I see what you're saying,
25 and in general I think we could do that. What would

1 concern me is, that on 2136 expenditures we've always had
2 caps on them; you would not be putting a cap in this. So
3 you'd be saying in the body of the resolution not to
4 exceed 992, and then you'd be going on to augment it. But
5 there's no limit on that.

6 I would suggest that what we do is -- and of
7 course the Board can, you know, do it differently -- is I
8 would suggest that we put the augmentation on the agenda
9 and then put this on as well, and so the Board would have
10 an additional week's worth of time basically so the staff
11 could come back with what they think they would need in
12 addition to it.

13 But I guess I would just suggest to the Board I'm
14 a little bit concerned about the open-endedness of this.

15 COMMITTEE MEMBER JONES: Kathryn, We had an
16 original resolution that went through the whole system
17 that didn't have any cap on it. So I mean I'm having a
18 hard time with that argument, only because we've limited
19 them to our existing expenditure authority. And this
20 Board has confidence in our Chair that if something rises
21 up, we have to let staff deal with it. And they're going
22 to call her -- she's going to end up calling all of us.
23 It's an action that's consistent with what happened the
24 last time. And it's -- this is all about the
25 ratification. And part of the direction that we're going

1 to give as this Committee is keep fighting the fire. If
2 we end up running out of money and we've augmented the
3 2136 funds so the dollars are available -- or the Guinn
4 thing -- then staff goes to the Chair, the chair comes to
5 us, and it's done. Rather than another item. That's all
6 we're trying to do.

7 CHIEF COUNSEL TOBIAS: Okay, all right. If
8 that's how the Board -- or the Committee wants to address
9 it, I don't have a problem. I was just raising my
10 concerns that I think it should be capped.

11 I will also point out that -- I will apologize
12 for this, but this item should have had a cap in it in the
13 first place. So I'm glad you brought it up. But that was
14 a mistake and we should have caught that.

15 CHAIRPERSON PAPARIAN: Mr. Washington.

16 COMMITTEE MEMBER WASHINGTON: I understand what
17 Ms. Tobias is saying. Can it be worded with an intent
18 language? And I'm just sitting here thinking out in terms
19 of what Mr. Jones is trying to accomplish as well as the
20 Committee, and what you're saying to us in terms of legal
21 advice.

22 Is there a way we could say it is the intent of
23 this Committee as this moves forward that we could give --
24 I'm just trying to help get some legal language here,
25 because I know where you're trying to go with this, in

1 terms of what's the intent of this Committee.

2 You understand?

3 COMMITTEE MEMBER JONES: Yeah.

4 COMMITTEE MEMBER WASHINGTON: And I think if we
5 could put it in a way that doesn't bind us in a way of
6 saying that you'd expend all the \$992,000 so you have
7 nothing to work with. But there's an intent piece here
8 that we can add to that, I think it would kind of get us
9 where we need to be. And I don't know how you say it
10 either, but I know that that's the direction we're trying
11 the go in.

12 CHAIRPERSON PAPARIAN: Mr. Leary.

13 EXECUTIVE DIRECTOR LEARY: I guess I was just
14 going to suggest, rather than try to continue to wordsmith
15 in Committee -- I think your direction is very clear. I
16 think you've given us some food for thought, some things
17 to work with before the Board meeting. My suggestion
18 would simply be put this over to the Board meeting. We've
19 got your direction. We'll wordsmith the resolution.
20 We'll do the emergency Board meeting with the emergency
21 augmentation and bring it back to the full Board on next
22 Tuesday, rather than belabor the discussion.

23 I think there's a lot of give and take that's
24 been productive. I don't think we anticipated a lot of
25 this discussion when we prepared this item. We're glad to

1 hear the Board -- the Committee support the ratification.
2 That's been very clear. Now we've got ways to think about
3 dealing with the future. So I think we'll come back on
4 Tuesday with this thing nailed pretty shut, pretty tight,
5 and ready to roll.

6 CHAIRPERSON PAPARIAN: Is that okay with you?

7 COMMITTEE MEMBER JONES: Okay with me.

8 CHAIRPERSON PAPARIAN: But I'd like to indicate
9 to the Board that we have the Committee members' unanimous
10 support to move forward in this direction. I don't know
11 that we need a resolution for that. But I don't want it
12 to go forward with any thought that there's any question
13 about moving forward. I think we all want to move forward
14 and we're clear in the direction we want to move forward
15 in. And we need to have both the language and the
16 procedural issue with the emergency meeting with that.

17 Okay. Very good. That's it then on this item.

18 Thank you for coming and making the presentation.

19 And be quick, though without violating any laws,
20 getting back there to deal with the situation this
21 afternoon. I think we should probably take our lunch
22 break at this point and come back at 1:30, unless anybody
23 has anything else to come before us.

24 Okay. We'll come back at 1:30. Thank you.

25 (Thereupon a lunch break was taken.)

1 AFTERNOON SESSION

2 CHAIRPERSON PAPARIAN: We're good to go here.

3 Back from lunch break, we'll start with ex
4 partes.

5 Mr. Jones.

6 COMMITTEE MEMBER JONES: Actually I -- oh, I said
7 hi to Dan Avera and talked with Ted.

8 CHAIRPERSON PAPARIAN: Okay. I just said hello
9 to Mark Murray, talked briefly about C&D. And also said
10 hello to Yvonne Hunter.

11 COMMITTEE MEMBER PEACE: I just said hello to
12 Yvonne Hunter.

13 CHAIRPERSON PAPARIAN: Mr. Washington.

14 COMMITTEE MEMBER WASHINGTON: I'm up to date.

15 CHAIRPERSON PAPARIAN: Okay. To review where
16 we're at, we're kind of bouncing around the agenda. We're
17 kind of taking some things out of order in response to
18 some of the stuff that's happened today.

19 The next item that we were going to take up is
20 the overview of the permit process and public
21 participation as it relates to the permit process.

22 After we're done with this item -- and you can
23 help me out, Mr. Walker -- after we're done with this item
24 I we'll go back to the regular order.

25 So after this item, the next item would be the

1 Item D, the Shafter-Wasco Sanitary Landfill.

2 ACTING DEPUTY DIRECTOR WALKER: Yes.

3 CHAIRPERSON PAPARIAN: Then we'll go back through
4 the other permits that are up. And then we'll end the day
5 with the LEA evaluation item.

6 Okay. Go ahead, Ms. Tobias.

7 CHIEF COUNSEL TOBIAS: Good afternoon, Chairman
8 Paparian, Committee members.

9 The purpose in presenting the information today
10 is to give everyone a common ground from which to discuss
11 public participation in the permit progress.

12 (Thereupon an overhead presentation was
13 Presented as follows.)

14 CHIEF COUNSEL TOBIAS: So I put the handouts on
15 your desks there. There are some in the back for the
16 public. And then obviously we'll have it on the screen.

17 I'd like to suggest that we hold questions until
18 I get the first part of the presentation done, especially
19 for the benefit of the new members, so we can have kind of
20 a coherent laying out of the process. And then we could
21 go into the questions. But I will try to pause at
22 different times and ask for questions.

23 So on page 1 that's in front of you, that's a
24 flow charge, if you will, of a solid waste facilities.

25 You see in the lower right-hand corner where the

1 Board concurs or objects. The Board has statutorily the
2 authority to concur in a solid waste facility permit that
3 is actually issued by the LEA.

4 It's important to note that the Board has a
5 concurrence, not an approval. This concurrence is
6 basically the ability or the duty to agree to combine, to
7 produce, or to bring about something, or to join in.

8 This legislative scheme was added in the mid-70's
9 and placed on top of the existing permit scheme, both the
10 local and other state agencies.

11 In 1995 the Board adopted tiers, which you see on
12 page 1, the idea that not every facility needed the same
13 type of solid waste facility permit. And we have
14 standardized permits, a registration permit, and a
15 notification tier, again up there are on the screen.

16 The standardized permit reflects the fact that
17 many permits are similar. So coming up with a list of
18 standardized conditions cuts down on the amount of time
19 that's necessary to process the permit, thus expediting
20 certain facilities. An example of that type of permit is
21 a contaminated soil disposal.

22 Some facilities don't rise to the complexity of
23 larger facilities, so they're slotted into the
24 registration tier, which has reduced processing
25 requirements and no board hearing. An example of those

1 are direct transfer facilities.

2 And then still others are at the low end of the
3 need for regulation, and only need to notify the LEA that
4 they are operating in a certain location. And examples of
5 those are nonhazardous ash treatments.

6 But all of these basically stem from the Board's
7 consideration of a project, which is a concurrence.

8 So if you'd turn to page 2.

9 --o0o--

10 CHIEF COUNSEL TOBIAS: And you may want to keep
11 these two -- that's the reason I paper clipped instead of
12 stapling them together. As we go further on through the
13 presentation, you may want to keep these two, the first
14 one and the second one, up so that you can refer back to
15 them once we get to the points of public participation.

16 And on this these over heads the blue is where
17 there is a public participation process.

18 So what happens at the local level prior to
19 concurrence?

20 Starting on the left-hand side of your screen
21 under "land use process" -- and I think this came up in
22 some of the hearings and discussion that we've done about
23 the different types of facilities that we have and how
24 they are permitted at the local level -- you'll see a
25 permit as of right.

1 What cities and counties can do is, if a proposed
2 project is consistent with the existing zoning -- and by
3 that I mean that, let's say, for example, you have zoning
4 that is industrial, and the industrial zone allows a
5 certain type of facility such as chipping and grinding, or
6 an ag zone -- an agricultural zone may allow composting.
7 If there is no CUP required -- and that's the conditional
8 use permit that's in the next column -- there is no
9 discretionary decision to be made by the local government;
10 thus there is no CEQA and no hearing.

11 So what that means is is that often cities and
12 counties want to allow certain zones to be used and maybe
13 even encourage certain uses to locate in those zones. So
14 the idea is is that if they don't require any additional
15 permits, and then, in essence, they're streamlining that
16 process -- it doesn't take you as long to locate in that
17 zone -- then it's permit by right. And your going through
18 the process is called a ministerial action. The city and
19 county has no discretion to question your use in that
20 zone, and so you're permitted by right.

21 The conditional use permit column there, the next
22 one over, allows a local government to take a closer look
23 at the proposed development, requires the lead agency --
24 and I'll explain that term in a moment, but basically the
25 local government or the lead agency -- to do CEQA analysis

1 and then to have a hearing on both the CEQA documents and
2 the conditional use permit.

3 So a conditional use permit basically allows you
4 to look more closely at the uses in that zone. You can
5 look at anything from parking requirements to the traffic
6 in and out of the project, a number of different kinds of
7 things. But what it does mean is that it does mean
8 there's CEQA analysis and it means there's a hearing. So
9 of course it's going to take you much longer to go through
10 the permit process; generally, a minimum of a year if you
11 need a conditional use permit.

12 Once the applicant finishes at the local level,
13 then generally an application is made to the responsible
14 agency.

15 Actually go back to that other one just for a
16 second.

17 So you'll see there there's two lines going over
18 from the solid waste facility permit process, one at the
19 top and then a diagonal one. Generally most permit
20 applicants are going to apply at the end of the
21 conditional use permit process.

22 There's nothing that stops them from also
23 applying for a solid waste facility permit at the same
24 time they apply for the conditional use permit. But CEQA
25 requires that environmental analysis be done at the

1 broadest width -- it requires that it be done by the
2 governmental entity that has the broadest governmental
3 powers, due to the possibility to address mitigation of
4 adverse environmental impacts.

5 So what that means is is that generally CEQA
6 wants the analysis to be done by a city or county, not by
7 a responsible agency that has much more limited powers.

8 CHAIRPERSON PAPARIAN: Kathryn, before -- did you
9 want to -- you asked to finish it before --

10 CHIEF COUNSEL TOBIAS: I could pause there. No,
11 I could pause there.

12 CHAIRPERSON PAPARIAN: You have the conditional
13 use permit and you have the full permit there, the two
14 columns.

15 When you look through the full permit process, it
16 looks like there's notification of requirements, but
17 there's no public hearing until this Board. But the CUP
18 is where you would have a public -- a noticed public
19 hearing.

20 Would things come up in the full permit that
21 would not be considered in that CUP public hearing?

22 CHIEF COUNSEL TOBIAS: Let me try to answer that
23 and see if I understood what you said, and then ask it
24 again.

25 It's possible, and in fact does happen, that

1 there are things that we regulate, that the LEA's and the
2 Board regulates, that local governments may not regulate.

3 Am I on track with your question?

4 CHAIRPERSON PAPARIAN: I think so. I mean the
5 basic question is -- and I think this gets to, you know,
6 one of Mr. Washington's questions is -- will there be
7 things coming up that will not have been subject to a
8 public hearing or opportunity for public input before they
9 reach this Board in our public hearing? And --

10 CHIEF COUNSEL TOBIAS: Sorry. Can you start
11 over?

12 CHAIRPERSON PAPARIAN: Yeah, okay.

13 For the CUP, you've got a public hearing on the
14 CUP. The CUP includes a lot of items related to a
15 facility. There's a public hearing on this CUP, and
16 that's a local process. You also then have the full
17 permit process. The first public hearing required in a
18 full permit process is at this Board.

19 So one of the questions that I think Mr.
20 Washington raised is, you know, will things not -- how
21 will I put it.

22 You can speak for yourself. I'll just ask my own
23 question.

24 (Laughter.)

25 CHAIRPERSON PAPARIAN: Are there issues in the

1 full permit that will not have been subject to a public
2 hearing before it reaches this Board?

3 CHIEF COUNSEL TOBIAS: Well, I wouldn't say
4 they're issues, but certainly there are projects that will
5 not have had a hearing at the local level that would --
6 that may reach the Board.

7 I would say it's most likely that projects that
8 are in our notification tier are probably also in either
9 in a permit by right or they could be in a CUP.

10 As you get higher up -- because our tiers are
11 structured to basically take -- if a project's going to
12 have certain types of impacts, it's probably not going to
13 be in a notification tier. It's probably going to be
14 higher up. So as the board has developed the tiers, I
15 think generally we've not had activities that would
16 generally have impacts in the lower tiers. But that's not
17 a guaranty.

18 So basically you could have projects that, number
19 one, either may not have a hearing at the local level for
20 a use permit and they may not have a hearing at the Board.
21 They may also be projects that don't have a hearing at the
22 local level that may have a hearing at the Board.

23 So what happens is is that you're looking at --
24 at the local level you're looking at discretionary
25 permits, you're looking at something where a city or

1 county can say yes, no, or maybe -- yes, we'll approve
2 you; no, we won't approve you; or, yes, we'll approve you
3 with conditions.

4 If you're in that left-hand column with a permit
5 by right, if you're in the proper zoning and they've
6 already taken into account the types of projects that they
7 don't think rise to a level of discretionary concern, if
8 you will, then they would be in that level. And there's
9 no hearing at the local level.

10 CHAIRPERSON PAPARIAN: Okay. Mr. Jones.

11 COMMITTEE MEMBER JONES: But on the permit by
12 right, we're talking about an area that's been zoned for
13 specific types of businesses, and it's identified in the
14 general plan.

15 So the general plan is not a silent document. I
16 mean, you know. You're a CEQA attorney. I mean general
17 plans and general plan updates are usually the most
18 heavily attended events in any kind of a growing
19 community. And if they've identified the potential for a
20 transfer station, a potential for a recycling facility, as
21 an appropriate use for a zone thing, they identify that.

22 And then if people have concerns about that, they
23 bring them forward at that time.

24 CHIEF COUNSEL TOBIAS: That's correct. And I
25 think that that is what cities and counties do and what we

1 want them to do.

2 What they're doing, as Mr. Jones says, in their
3 general plan they are going to lay out how they want their
4 city to look. If they want transfer stations and other
5 types of facilities like that to be in certain zones in
6 certain areas of their city, they may in fact encourage
7 those particular projects to locate there by making them
8 acceptable in a certain type of zone so that people can
9 basically do a very expedited permit review.

10 Conversely, if they don't want them in other
11 parts of town, then they might require -- let's say, for
12 example, in what's called a heavy manufacturing zone, an
13 M2 zone is what it's usually called, you might be able to
14 permit your transfer station by right, because that's
15 where the city wants it. They want it in a zone with
16 other types of uses that are similar to that.

17 They may not want it in their M1 zone, which is a
18 lighter manufacturing zone. They may not want them at all
19 in a commercial zone. So what they're going to do is
20 require a conditional use permit, saying, "Well, you could
21 be in a commercial area or you could be in an M1 area if
22 you want to be. But it's going to take you a minimum of a
23 year. You're going to have to do a CEQA document,
24 probably an environmental impact report. We'd like you in
25 our M2. And if you'd go in that zone, if you'd go buy a

1 peace of property in that zone, no permit process."

2 So you've just saved yourself at least a year's
3 worth of time, if not more, plus a fairly substantial cost
4 savings from not having to do CEQA. It's not that CEQA
5 wouldn't be done. As Mr. Jones points out, it's already
6 been done at a higher level. It's done at the general
7 plan level as opposed to at the project level.

8 COMMITTEE MEMBER WASHINGTON: Yeah, as you know,
9 general plans -- I come from a board of supervisors. And
10 we had an issue just before I left to be elected to the
11 Assembly at a board of supervisors meeting, where we had
12 about a thousand citizens come forward. They had been in
13 the right zone. Kenny Hung, who, as many of you might
14 know, served 50 years on the Board of Supervisors, L.A.
15 County. My former boss replaced him. We found out
16 there was an issue down there. Found out that the permit
17 had been issued 1989 or something of that nature.

18 It does not matter, and again I don't raise the
19 concerns about who they go through. All I'm saying to
20 this body is the public is not benefiting from these local
21 city councils, local board of supervisors doing their
22 little three-member meeting. It's not making a hell of a
23 difference. It's not doing any good, because the citizens
24 are not being brought into the process.

25 Whether it's notification, whether it's

1 registration permits, or whether it's a standardized full
2 permit, they're not being brought into the game.

3 And people are going out and they're building
4 this solid waste in people's backyards without their
5 permission. That's not that hard to figure out what's
6 happening here.

7 And I don't know what people are afraid of
8 letting the public know what's going on. I don't know if
9 it's a cash cow that's taking place or whatever it is.
10 But something is happening where the public is not being
11 brought into the process. And the only time we hear it is
12 when we go out here and we go down to these Crippen fires
13 and Westly tire fire sites and things of that nature.
14 When the public finds out what's going on, then they're in
15 outrage. I mean then they want to make sure that they sue
16 everybody in town.

17 And I mean this is not that hard to figure out.
18 I believe -- and it's my belief -- that we should have the
19 public involved with every process that takes place. Not
20 no little city council meeting where two council members
21 meet, they put a notification out, "We're going to hear
22 this particular business want to come in your district.
23 If you have something to say, come over to our meeting
24 where we're going to hear this permit in our zoning
25 hearing." That's not what I'm talking about.

1 I'm talking about good-faith efforts where people
2 who want to do business in people's backyards, that they
3 go to those communities, find out who those community
4 folks are, find out the different homeowners associations
5 and say, "Look, we want to do business. We're a clean
6 company. We're not just trying to throw anything in your
7 backyard. Tell us where you're coming from as it relates
8 to this issue, and how do we get to where we need to go?"

9 I understand everything you've just said about
10 the process. But that's the problem here, it's the
11 process.

12 CHAIRPERSON PAPARIAN: Mr. Jones, before you
13 respond --

14 (Laughter.)

15 CHAIRPERSON PAPARIAN: I interrupted Ms. --

16 COMMITTEE MEMBER JONES: He's assuming.

17 CHAIRPERSON PAPARIAN: No, you can go forward.
18 But I interrupted Ms. Tobias. She does have some more
19 presentation to make. And then we do have some witnesses.

20 So just so that -- go ahead and say what you were
21 going to say. But before the rest of us start getting
22 into a long debate about this, I think we'll want to
23 hear -- No, no, no, you can go ahead --

24 COMMITTEE MEMBER JONES: I wasn't going to say
25 anything.

1 (Laughter.)

2 CHAIRPERSON PAPARIAN: Okay.

3 Then let's just move forward.

4 Ms. Tobias, I think you can see our anxiousness,
5 when you start debating this issue.

6 So keeping that in mind, if you want to go
7 forward.

8 CHIEF COUNSEL TOBIAS: Sure.

9 If you'd go to the next overhead, Donna.

10 --oOo--

11 CHIEF COUNSEL TOBIAS: This overhead shows the
12 land use process, again at the local level, with CEQA.

13 And so the same process that you had before -- or I should
14 say same -- well, same process. On the left-hand side,
15 permit as of right, that does not have any CEQA or
16 hearing. Conditional use permit.

17 So what happens is at the local level, is that an
18 applicant goes into apply for a conditional use permit.
19 Once that application is accepted as complete, then it
20 bounces over to the CEQA process. And I'm going to go
21 through this -- the CEQA process in a little bit more
22 detail. But basically at the local level the city or
23 county would be the lead agency. You also see off to
24 right there's responsible agency. That's us, mostly with
25 solid waste facility projects. It could be any other

1 number of agencies -- air, water, other special
2 districts -- fish and game, et cetera.

3 So, the process is is that the lead agency would
4 go through that process. They would decide whether the
5 project is exempt, either because it has a statutory
6 exemption or what's called a categorical exemption, which
7 means you have fits in certain categories that the
8 resources agency through the regulations process has
9 decided is not generally subject to CEQA except in certain
10 circumstances.

11 The lead agency will then do an initial study.
12 They'll decide either that they need -- the compare a
13 Negative Declaration, which means that it's unlikely that
14 the project would have any significant environmental
15 impacts -- any significant adverse environmental impacts;
16 or they would prepare an EIR, an environmental impact
17 report, which means that there is a potential for
18 significant environmental effects and that that document
19 is going to be used to explore those effects.

20 So you'll see in blue where the opportunities are
21 for public interaction or public testimony. In the
22 Negative Declaration process, the local -- the lead agency
23 basically needs to notify those who have indicated an
24 interest in being notified and members of the public
25 generally by posting in the newspaper that they're doing a

1 Negative Declaration. And then the Negative Declaration
2 would be approved when the local government holds a
3 hearing on that process.

4 So you'll see over there on the left-hand side
5 again that local hearing. Same process with the EIR
6 except there's more public involvement because it's --
7 there's more at stake.

8 So when there's an EIR to be prepared, the lead
9 agency puts out a notice of preparation, again to
10 responsible agencies, to any member of the public that has
11 indicated an interest in being notified. Once the draft
12 EIR has been completed, again that will be circulated.
13 Copies of that are sent to local libraries. They are
14 generally often have a hearing to consider comments on
15 that.

16 The document goes out for the 45 to 60 days.
17 Then the public puts in their comments. The local agency
18 responds to those comments, publishes the final EIR. And
19 again -- oh, back to the left-hand side -- that document
20 is certified in the local land-use process. I think it's
21 important to understand that CEQA by itself does not have
22 a public hearing requirement because it is in essence
23 either -- whatever way you are want to think of it --
24 superimposed or parallel process. But the permit process
25 is required in the permitting side of things, not in the

1 CEQA side of things.

2 I think it's important also to know -- in a
3 second I was going to talk to -- but, anyway, so that's
4 the EIR process, and that's pretty much in a nutshell.

5 Any questions so far on the CEQA process itself?

6 CHAIRPERSON PAPARIAN: Well, let me just ask.

7 So, if there's a Negative Declaration -- which would be an
8 indication that it's the belief of the permitting agency
9 and the applicant that there is no environmental impact --
10 that the notice that they've made that -- well, their
11 requirements for notifying the public about that decision
12 to issue a Negative Declaration, and -- well, their
13 notification to the public is via a newspaper and then
14 putting that on the agenda of the decision-making body?

15 CHIEF COUNSEL TOBIAS: Well, I was just going to
16 say.

17 Can you skip, Donna, to page 10.

18 --o0o--

19 CHIEF COUNSEL TOBIAS: Thanks.

20 This is the notice of intent to adopt Negative
21 Declaration. So it's the -- the Negative Declaration is
22 circulated for 30 days. It can have a reduced time period
23 of 20 days if it's a strictly local project. They are
24 going to mail notices to people who have requested notice
25 of writing, and then one or more of the following: Either

1 general publishing in a newspaper, posting on the proposed
2 projects, or mail to owners and occupants of contiguous
3 property.

4 It's also posted in the Office of the County
5 Clerk. And then there's a similar slide -- back one,
6 Donna, that draft EIR.

7 --o0o--

8 CHIEF COUNSEL TOBIAS: Similar type of process,
9 except of course a longer timeframe, generally a 45 to 60
10 day public review. And again can be reduced to 30 days.
11 Same type of noticing takes place.

12 CHAIRPERSON PAPARIAN: In terms of people who
13 have requested notices in writing, do they have to request
14 this specifically, anything related to the EIR, or can
15 they make a request for anything related to a proposed
16 facility?

17 CHIEF COUNSEL TOBIAS: Generally what people do
18 is they ask to be notified on a proposed facility. So
19 they don't have to specify that they want to know about
20 the CEQA or, you know, anything -- a discretionary
21 decision or administerially. It could basically go into
22 the local level, city or county, and say, "You know, I'd
23 like to be notified about anything that happens on this
24 assessor parcel" or "at this particular landfill" or "this
25 transfer station" or whatever.

1 CHAIRPERSON PAPARIAN: Okay. So a citizen writes
2 a letter to their local government saying, "I'd like to
3 know everything that happens with Acme Landfill," and
4 they'll get on the mailing list for Acme Landfill?

5 CHIEF COUNSEL TOBIAS: Right.

6 CHAIRPERSON PAPARIAN: And the LEA will use that
7 to notify people and the local government will use it to
8 notify people?

9 CHIEF COUNSEL TOBIAS: Well, the local government
10 we use that. I think that -- although I think that the
11 LEA would probably talking to the local government about
12 that, it's probably better to put it on a letter at each
13 agency that you want to be notified of, as opposed to
14 assume that a local government would tell the other
15 responsible agencies.

16 I think -- my experience is, working at the local
17 and state level, is that both governmental levels are very
18 interested in having people know when these hearings are
19 happening, so that they would make an effort to say,
20 "We've got a list. Here's the list of people that you
21 could notify." But I think to be sure -- having also
22 been on the other side, again, with organizations who
23 wanted to be notified of something, you know, I put mine
24 in at every step of the process.

25 CHAIRPERSON PAPARIAN: So if you were

1 concerned -- if you were a member of the public concerned
2 about a facility that is under the jurisdiction of this
3 Board, how would you know all the letters you'd have to
4 file -- how would you know -- would you just have to
5 figure it out on your own that there's an LEA there?

6 COMMITTEE MEMBER WASHINGTON: As soon as the fire
7 starts, people are going to know then. Then you ask
8 questions. Once the fire happens, that's when you find
9 out what you have to do so it won't happen again. And
10 that's the concern.

11 CHIEF COUNSEL TOBIAS: I don't know if the court
12 reporter could hear, Mr. Washington, because it wasn't
13 on --

14 COMMITTEE MEMBER WASHINGTON: I was just
15 responding that the way -- the question that the Chair is
16 asking when would these persons know, the only way they'd
17 know is after the Crippen fire takes place. Then the
18 citizens find out what was burning in their backyard, then
19 all this health stuff is going on, then they'll go and
20 they'll get involved because they have no clue that this
21 person was operating illegal in their backyard. That's
22 the only way people will organize -- that's how people
23 organize, that's how they protest, when something takes
24 place. It's after the fact. They all -- most people
25 respond because they're being reactive. They're reacting

1 to something that took place. Had that fire never take
2 place, we wouldn't be talking about the Crippen fire
3 today. I mean it's that simple.

4 CHAIRPERSON PAPARIAN:

5 CHIEF COUNSEL TOBIAS: I do tend to agree with
6 Mr. Washington in a sense it does often take an event to
7 catalyze a neighborhood.

8 And I used to do a lot of public speaking to a
9 lot of different groups on the CEQA process and on the
10 land-use process. And generally people don't tend to
11 worry about what's happening until it's something that
12 they don't want in their neighborhood. So that is -- I
13 think that's an accurate statement.

14 Could you move to the radius map, Donna.

15 --o0o--

16 CHIEF COUNSEL TOBIAS: One problem with
17 notification -- and I shouldn't say it's a problem, but
18 one thing that happens with notification is -- this is
19 what's called a radius map. This is what's used at the
20 local level. Every zone has it's own distance that it can
21 use. The Government Code calls out a minimum, but a
22 city -- or county can use a different amount.

23 So if you look at the project, which would be in
24 the blacked in area, what they need to do is do -- they're
25 required to notify all of the assessor parcels. And

1 that's what the little -- you can see the little kind of
2 oval numbers and then the circle numbers in there that
3 signifies a block number and a parcel number.

4 So what happens is you're going to measure out
5 500 feet from each corner of the project. For example,
6 assuming on this map that, since those are larger parcels
7 on the left-hand side, those could, for example, be an
8 industrial type of parcel with perhaps one building on it,
9 one landowner.

10 If they are notified, if they're in an industrial
11 area, they may not be concerned with what's happening on
12 that parcel.

13 As you can see, as you move on to the right, the
14 parcels get smaller. Those could either be residential
15 parcels or those could be just smaller commercial or
16 industrial parcels.

17 But if you had a neighborhood that -- say this is
18 all of an industrial area, but you had a neighborhood to
19 the north or to the south, they would not be notified, at
20 least they would not be required to be notified because
21 they're outside that 500 foot radius.

22 So this is where, you know, we've run into
23 problems before where the noticing has been done at the
24 local level, it's been done according to what statute and
25 local ordinances require. But unfortunately it may not

1 serve to notify people who are outside that line who may
2 be affected by odors from a composting facility or
3 something like that.

4 Ms. Peace.

5 COMMITTEE MEMBER PEACE: So who sets the 500 foot
6 radius?

7 CHIEF COUNSEL TOBIAS: There's a minimum set in
8 the government code. And then a city or county could set
9 a higher one. And that's something that the Board has
10 talked about in the past, as to whether we should set a
11 higher number or deal more with noticing of affected or
12 interested parties.

13 CHAIRPERSON PAPARIAN: What is the minimum in the
14 Government Code? Is it 500 feet?

15 CHIEF COUNSEL TOBIAS: Well, it's different for
16 each? I mean it's -- high recollection is different for
17 each one.

18 Michael says 300 for a use permit or variance.
19 But, for instance, if you thought -- you know, if you had
20 facilities in a certain type of zone, you could increase
21 your noticing.

22 CHAIRPERSON PAPARIAN: And you said the local
23 governments can increase it. Does this Board have the
24 authority to increase noticing requirements?

25 CHIEF COUNSEL TOBIAS: Not for local governments.

1 But we can extend out our own. Or you could go through
2 the Legislature and work with the locals governments. I
3 think the League of Cities is here today. And you might
4 want to talk to Yvonne about that.

5 CHAIRPERSON PAPARIAN: Do we have any noticing
6 requirements that we place on the LEA's?

7 CHIEF COUNSEL TOBIAS: No, except for people who
8 have requested notice.

9 CHAIRPERSON PAPARIAN: Okay.

10 COMMITTEE MEMBER JONES: Mr. Paparian.

11 CHAIRPERSON PAPARIAN: Mr. Jones.

12 COMMITTEE MEMBER JONES: Just a question.

13 I think it was said earlier that it's -- and I
14 don't know if it was made clear.

15 The lead agency normally is not the LEA, right?
16 Normally the lead agency is the planning department or
17 somebody like that within the jurisdiction. And I think
18 it was -- I thought I heard somebody say LEA or the
19 proponent of the permit.

20 It's actually the planning department that is the
21 lead usually, right?

22 CHIEF COUNSEL TOBIAS: It's actually the city or
23 county. And they use their planning department to carry
24 that out.

25 Donna, if you could go to page 5.

1 COMMITTEE MEMBER JONES: So It's a detached
2 agency?

3 CHIEF COUNSEL TOBIAS: Well, I wouldn't call it
4 detached. But I think what you mean is that it's a -- one
5 of the departments's of the city or county has to carry
6 out the CEQA responsibilities.

7 COMMITTEE MEMBER JONES: I meant detached from
8 the LEA.

9 CHIEF COUNSEL TOBIAS: Oh, I'm sorry. Yes. I
10 didn't understand what you were saying.

11 So under CEQA there is a lead agency, as Mr.
12 Jones nicely led into, that has responsibility for doing
13 the initial CEQA compliance. And so they are the ones who
14 are going to decide if an application is complete. They
15 will decide, often based on an initial study, whether to
16 do Negative Declaration or whether to do an EIR. And
17 then, as you see, more so you can reference this in the
18 future, we've got the process called out for doing that.

19 One of the things that sometimes happens with our
20 types of projects is, again, they can come into the Board
21 without the local agency having had to complete CEQA.
22 And, again, that would be in an area where it's -- has
23 rights, where they're coming in, let's use that transfer
24 station that's locating in the M2 zone. If the city has
25 an M2 zone, it permits a transfer station and it does not

1 require a use permit for that, then there is no
2 discretionary decision for the city to make. And so then
3 the next permit that's required is our permit.

4 The permit applicant would go to the LEA. And at
5 that point the LEA would become the lead agency.

6 Generally the LEA is not a lead agency, it's not
7 a general governmental entity for the purposes of CEQA.
8 But it may become the lead agency if there's not a city or
9 county involved with the discretionary decision that would
10 do that first.

11 So that's how an LEA, or the Board if the Board
12 is the enforcement agency, would become the lead agency in
13 that situation. So we would switch from being a
14 responsible agency to I lead agency if we were the first
15 ones to make a discretionary decision.

16 Does that make sense?

17 --o0o--

18 CHIEF COUNSEL TOBIAS: There's also a slide, the
19 next one, just again for future reference on responsible
20 agencies. And again that's pretty much what I've said.
21 We have the same process that we go through as a
22 responsible agency. But of course the main responsibility
23 for CEQA lies with the city or county.

24 I want us to go back to one slide that we kind of
25 skipped over in doing this, on page 4, the objectives of

1 CEQA.

2 I did want to point out that CEQA takes very
3 seriously the role of the public in its process.

4 These are the objectives:

5 To disclose to decision makers and the public the
6 significant environmental effects of proposed activities.

7 CEQA's also to identify ways to avoid or reduce
8 environmental damage.

9 Let me skip to the ones that are the public. To
10 disclose to the public reasons for agency approvals of
11 projects with significant environmental effects. To
12 foster interagency cooperation. And to enhance public
13 participation.

14 So on that slide that I showed before where the
15 applicant applies to the local government and then it goes
16 into the CEQA process, a lot of the public participation
17 actually occurs during the CEQA process. That's really
18 where the Legislature has anticipated that it should occur
19 and does occur. The idea that what you want in that CEQA
20 document is a decision-making document, disclosure
21 document that will be the basis of everybody's decision.

22 So responsible agencies such as the Waste Board
23 have the same responsibility as a citizen does to come in
24 and work on that document, make sure that it works for us
25 and it works for the citizens.

1 Any questions on that part?

2 So I've gone through the different aspects of
3 CEQA, shown you where the public participates.

4 Then the last page, on page 11, as I mentioned,
5 the local agency is going to consider the CEQA documents
6 and the permit in a public hearing, in accordance with the
7 timelines that are called out in law.

8 So in order to have a local hearing then, 10-day
9 notice, the same as ours. You have to mail to the owner
10 and the applicant. You are sending a mail notice to
11 owners of the property within 300 feet of the subject
12 property. It's mailed to local agencies who provide
13 essential facilities and services, and published in the
14 newspaper of general circulation or posted in three public
15 places.

16 So there is I think a fairly complete scheme,
17 both through the permit process and through CEQA, to make
18 sure that citizens are notified about it.

19 And then once this the decision has been made,
20 the responsible agencies may act.

21 I want to close by basically talking a little bit
22 about the solid waste facility permit, now that you've had
23 a very quick overview of the hearing process. And, that
24 is, that our solid waste facility permit is somewhat
25 unique in that it requires that the LEA deliver a proposed

1 permit to the Board for Board concurrence.

2 The Statute does not anticipate a hearing at the
3 local level but only at the state level.

4 In 1989 when AB 939 was passed I think that the
5 Legislature was primarily concerned with landfills at that
6 time, which have already undergone permit and CEQA review
7 at the local level. So I think they were really focused
8 on -- I think they weren't focused on the number of more
9 specialized facilities that we have at this time.

10 They can often be independent of a landfill, such
11 as the composting, chipping and grinding transfer
12 stations, one of the type of facilities that we've talked
13 about that often operate inappropriate zoning.

14 I'm not sure they also really fully anticipated
15 the fact that sometimes amendments to a solid waste
16 facility's permit do not trigger CUP, the conditional use
17 permit, or CEQA review at the local level. It may be
18 something that's important to us, but it may not be a
19 land-use related issue.

20 So while there is nothing in statute which
21 prohibits adding a hearing to the solid waste facility
22 permit process, it is not authorized by the statute
23 either. A public hearing at the local level is likely to
24 add a minimum of two weeks to the timeframe, which would
25 then have to be accounted for in an LEA-Board permit

1 process timeline. And it may be duplicative of the
2 Board's review.

3 But what I tried to do is give you an overview of
4 the process so that everybody's still on the same page in
5 talking about public participation.

6 Questions?

7 CHAIRPERSON PAPARIAN: Thank you.

8 Any questions of Ms. Tobias before I go into the
9 witnesses?

10 Mr. Washington.

11 COMMITTEE MEMBER WASHINGTON: I guess just to
12 comment in terms of -- you know, it would be great if
13 these planning commissions on zoning commissions and all
14 these folks would do the right thing. Then they'd really
15 have the public's input.

16 All I'm suggesting, ladies and gentlemen -- I'm
17 not saying anything else after this -- is this: In L.A.
18 County we have 10 million people. Our planning commission
19 was made up of 5 members who met at 9 o'clock in the
20 morning downtown Los Angeles. Every facility that they
21 were building was in my district in Watts-Compton. Those
22 folks can't afford to take off a day of work to go down to
23 the planning commission at 9 o'clock in the morning.
24 These are citizens who can barely pay their rent. This is
25 an injustice to people, to have to sit and go through this

1 when we know what the problem is and don't resolve the
2 problem.

3 Now, you can put all your ducks on these planning
4 commissions and these local zoning commissions if you want
5 to. But I'm telling you, that's not where it's at. You
6 need to have public input. And real public input is
7 someone going out, finding out where all these homeowners
8 associations are, when someone who want to do business in
9 their backyard, and bring them to the table.

10 Not necessarily waiting for a Crippen fire to
11 take place before somebody goes, "Whoa, when did they put
12 that up? When did this happen? Why didn't we know about
13 this?" We spend weeks and weeks trying to identify --
14 now, if this Board have no control over that, then I'll
15 take it over to my colleagues in the Legislature and have
16 them make us do it. Because someone needs to stand up for
17 the people, the public, to make sure they have -- I have a
18 great relationship with our local mayors, city councils,
19 all of those folks. That's not what I'm talking about.

20 And at the end of the day those folks who will
21 tell you if people want to do business in their city, they
22 need to do the right thing and make sure that the citizens
23 are part of the process, they would do the right thing.

24 And so I appreciate our chief counsel bringing
25 this information forward to us. But it still does nothing

1 to take away from the fact that the public is not a part
2 of this process.

3 I'm not telling you something I heard. I served
4 six cities in the Legislature for 6 years. I had to go
5 down there and have state hearings because the local city
6 folks would not do it, the local country people would not
7 do it.

8 Thank you.

9 CHAIRPERSON PAPARIAN: Okay, we have six speaker
10 slips, starting with Mr. Greg Pirie from Napa County and
11 the Napa County LEA.

12 I think I have some more speaker slips coming.

13 After Mr. Pirie I have Mike Schmaeling.

14 MR. PIRIE: Greg Pirie, Napa County; also Chair
15 of the Enforcement Advisory Council.

16 Just in the Napa-wise, I think the local process
17 has actually worked pretty good. We've had a lot of
18 issues that have come on the table in the last 10 years.
19 And some of them we didn't even have to have a public
20 hearing on. But we still stepped forward and were able to
21 do that, even if we denied a landfill, which was the case.

22 So, you know, even though there are specific
23 problems that could be throughout the state, I think we
24 also need to look at the things that are working right.
25 And I think that's the --

1 COMMITTEE MEMBER WASHINGTON: Can you give us a
2 for instance in terms of what an issue was that didn't
3 have to have a public hearing put you guy said, "You know
4 what, we're going to do it anyway."? Just give an example
5 of something.

6 MR. PIRIE: Early '90's, city of American Canyon.
7 One landfill was closing. They wanted to site another one
8 in an adjacent valley. It wasn't to the permitting
9 process yet. No CUP was issued. No solid waste facility
10 permit was issued. So the case was, you know, don't just
11 do the CUP right away. So they had a public hearing in
12 the city, public was invited, everybody new about it.
13 Public voiced their concerns. And obviously there's no
14 more landfill that's going to be sited in the city of
15 American Canyon.

16 So just a case to where the process can work
17 without having a strict something definitely a regulation.

18 And I think it is very important that you look
19 at, in terms of the local process, the most knowledgeable
20 people that you're going to be talking to, number one, the
21 LEA. They're going to know every site there, every
22 facility. They will have a great indication of what's
23 going to need public hearing, what wouldn't. And
24 obviously the planners. And I think for the city council
25 and the board members that are in our jurisdiction,

1 they're pretty up on the situation and what's going on, to
2 where if there was a situation that may warrant public
3 input, it's going to happen.

4 And there's one going on right now that's not a
5 solid waste facility issue, and they're already going on
6 30, 40 plus hours of public testimony that really they
7 didn't have to do. They could have issued the ordinance
8 right away.

9 So there is kind of two ways to look at it in
10 terms of what could happen whether it's in regulation or
11 not.

12 And another thing I'd like to look at is we've
13 got a lot of permits that come before this Board that are
14 great. I mean they work fabulous. So I think we also --
15 we need to see, you know, how many permits that come
16 before the Board are really a problem. If they are a
17 problem and have an issue, you know, how many didn't or
18 did have a public input, you know. I'd love to have other
19 LEA's just stand up and -- you know, if they had a problem
20 with a permit, did it or did not have public input with
21 it. I would love to hear that.

22 And in terms of any kind of other workshops that
23 may come into play or regulation, in terms of the
24 Enforcement Advisory Council, we'd love to work with you.
25 We'd love to pass anything through you.

1 So keep us in mind, if you have any kind of other
2 information, that we be invited.

3 Thank you.

4 CHAIRPERSON PAPARIAN: Thank you very much.

5 Mike Schmaeling, followed Dan Avera.

6 MR. SCHMAELING: Good afternoon, folks. It's
7 great to see you.

8 Thank you for taking this opportunity to discuss
9 this issue.

10 First off, the issue is with landfills, or is it
11 with transfer processing stations? The audit found that
12 it was basically with the transfer processing stations not
13 getting -- and the fire that we just were this morning
14 talking about. These were facilities that were outside
15 our scope of authority. And that's why they came to our
16 attention at that point.

17 So keeping that in mind, what is our goal as LEA?
18 Well, we're health officers first and then we're the local
19 enforcement agency over solid waste issues.

20 My job is to protect the health, safety, and the
21 environment. We accomplish this through a partnership
22 with your Board staff.

23 In developing the permit Board staff looks very
24 rigorously at all aspects of that permit process. But
25 through the CEQA process, conformance findings, financial

1 mechanisms, operational documents, permit conditions,
2 permit condition language -- and that also has to be --
3 that permit condition language has to be as strict or
4 stricter than what CEQA requires.

5 In Santa Barbara County we try to be sure that we
6 reach out to the citizens well in advance before we even
7 get to the CEQA process. We want to find out -- we found
8 it much cheaper to go ahead, find out what all the
9 problems are before we start bringing it up to that CEQA
10 process. So they have a very active public outreach
11 program. Tajiguas Landfill is a prime example of how that
12 can successfully work.

13 Under the specifics here then. The issuance of
14 the solid waste permit must remain a local responsibility.
15 We welcome Board involvement in this process to be sure
16 that we are doing the best job possible. But we need to
17 work with Board staff to assure that all of your concerns
18 are met during this concurrence process.

19 We work with Board staff and local planning
20 departments in assuring that all legal requirements are
21 met as far as the public hearing process goes. We also
22 strongly encourage the operator to pursue public outreach
23 meetings to find out what concerns exist and are they
24 properly addressed.

25 If additional public hearings are wanted and

1 warranted, then legislative remedies should be pursued.

2 After the LEA has complied -- or, excuse me.

3 What I don't want to see happen though is that a permit be
4 held hostage after the LEA has complied with all the CEQA
5 and all the -- and the CIWMB's requirements of policy and
6 regulations. You know, after we've done everything that
7 we can, we don't want the permit held up and say, "I'm
8 sorry, operator, but this just wasn't looked at."

9 So that's my input. Thank you very much, folks.

10 CHAIRPERSON PAPARIAN: Okay. Thank you.

11 Dan Avera, followed by Yvonne Hunter.

12 MR. AVERA: Good afternoon, Board members. My
13 name is Dan Avera. I'm the Director of Environmental
14 Health with San Bernardino County and I'll also for the
15 Local Enforcement Agency for solid waste.

16 I appreciate Kathryn's brief description of the
17 permitting process and the CEQA process. However, a
18 couple years ago, there was a longer workshop that more
19 fully described the entire process. And I think it might
20 be worthwhile if we had a longer workshop that you were
21 able to take into account the local land-use decision
22 making at the local level, the CEQA process, and then the
23 solid waste facilities permit.

24 I want to briefly touch on three important
25 issues: Public participation, the local permitting

1 process, and CEQA.

2 Public participation from my perspective is
3 critical. It's very important. It's part of the LEA's
4 responsibility to ensure that there's adequate public
5 participation, and having the public be able to come to a
6 public meeting, voice their concerns. If the local
7 land-use decision-making body, the lead agency for CEQA or
8 the agency that you see the additional use permit doesn't
9 have a public meeting, I think it's incumbent upon the LEA
10 to hold a public meeting specifically on the solid waste
11 facilities permit. Currently it's not required or
12 mandated by state law or regulations. But maybe that's
13 what we need to check out to see how that can be
14 accomplished, to solicit that public input -- comment.

15 As you saw on the slide, public notification, 300
16 feet. Who's that going to include around the landfill?
17 Ten people? But what should the radius be? A mile? Five
18 miles? Ten miles?

19 San Bernardino County we have landfills out in
20 the middle of the desert. Well, it's population isn't
21 that great. But I can guarantee you the people that live
22 around that landfill, they don't want any more trash out
23 there.

24 Okay. The desert communities are out there.
25 They don't want to see exportation of solid waste out into

1 the desert communities.

2 So I think we need to look at the laws and
3 regulations and encourage public participation and how we
4 can both accomplish that.

5 The local permit process. We have -- LEA's are
6 very rarely the lead agency for CEQA. We rely on the
7 planning departments, both at the county and city, to be
8 the lead agency, to follow the requirements of statute as
9 far as CEQA is concerned and conditional use permits.

10 The one area that becomes a little bit
11 questionable in my mind, and we -- our county has had a
12 couple of them -- but we have a public agency who is also
13 the project proponent. There it gets a little bit
14 unusual.

15 But their local governing bodies, city council,
16 the board of supervisors, they're elected officials of the
17 community, if they don't -- if they ignore the wishes of
18 the constituents, they may not be there at the next
19 election. So they have a role as well. Now, we need to
20 do a better job.

21 We need soliciting comments from the surrounding
22 community, and I think that can be accomplished.

23 Kathryn touched on the CEQA process. CEQA
24 process is very time consuming, can be very complicated.
25 We, the LEA's, are responsible agencies. CIWMB is a

1 responsible agency. We need to work together with the
2 lead agency early in the process. We can't wait until
3 down the line.

4 And even though the statute allows concurrent
5 review, some times there's an issue about when do we
6 submit, the LEA, to the waste board the status of CEQA, as
7 you can see in the flow charts, or whether it's completed.

8 San Bernardino LEA before we put a package
9 together and send it up here, we want the CEQA to be
10 certified. We want it to be complete. We don't want any
11 surprises later on.

12 All the terms and conditions of a solid waste
13 facilities permit should be addressed in the CEQA
14 document. They need to be compatible.

15 Public hearing, public participation, I would
16 like to offer that. The California Commerce Directors on
17 Environmental Health, we work together on any proposed
18 alternatives to encourage public participation. I think
19 it's important and I mean -- I will be here in the future,
20 I'm sure, to discuss these issues in more detail.

21 Thank you very much.

22 CHAIRPERSON PAPARIAN: Thank you.

23 Yvonne Hunter, followed by Mark Aprea.

24 MS. HUNTER: Good afternoon. I'm Yvonne Hunter
25 with the League of California Cities. And hopefully I can

1 make it through this presentation without having a
2 coughing fit.

3 Kathryn's overview was excellent. And she said a
4 number of things that I was going to talk about.

5 What I want to do is just emphasize a little bit
6 the local government land-use process that sort of runs in
7 parallel, not necessarily at the exact same time, but you
8 have the tract of the local enforcement agency, and the
9 Waste Board issuing the solid waste facility permit. And
10 the host jurisdiction, the city or county in which the
11 facility is located, also has a tract where they issue the
12 land-use permit.

13 Let me emphasize that the 477 -- and it may be
14 now 78 -- I apologize, I can't remember -- cities in
15 California, we take our public hearing responsibilities
16 very seriously.

17 And in many instances, even if the statute says
18 such and such shall be adopted at a notice of public
19 hearing, we will have additional workshops prior to that
20 public hearing, as has been discussed previously. In many
21 instances even if the statute does not require a public
22 hearing, we will have it.

23 And depending on the size of the facility, the
24 type of facility, the notice may go out way beyond the 300
25 foot limit.

1 As Kathryn said, some types of facilities are
2 small enough or not complicated enough where they don't
3 need a conditional use permit. It's ministerial. You're
4 in the right zone. If it's just a small business or a
5 very small facility, and it doesn't even have to be a
6 solid waste facility, you can get your permit either
7 through the planning department or perhaps a zoning board,
8 and you go off and do your business.

9 If it's a larger facility, it's more
10 complicated -- and, again, this could be some sort of
11 solid waste type of activity, whether it's chipping and
12 grinding or a transfer station or a landfill, or it could
13 be a car wash or a metal-plating facility. But depending
14 on the complexity of it, the local government can say,
15 "No, we're going to require a conditional use permit. And
16 what that means is, you can use that area, you can have a
17 facility, you can have a permit, a use permit, but we're
18 going to place certain conditions on it. And if you
19 violate any of those conditions, we will yank your
20 permit."

21 And under law, conditional use permits for
22 general law cities have to be adopted at a public hearing.
23 I would think all charter cities do that as well, simply
24 because they have to meet the due process requirement that
25 Kathryn said.

1 I remember an example in this one city. It was
2 an existing hardware/lumber yard that wanted to add a
3 cement mixing -- ready mix cement so home owners can come
4 in and put in a new patio. And the city added some very
5 strict conditions dealing with noise, dealing with dust
6 abatement. Those are the kinds of things that will be put
7 in use permits.

8 It's important to remember that -- and it's
9 something that we guard very, very, very carefully and
10 jealously in the solid waste area. The local government,
11 the host jurisdiction can add conditions that go above and
12 beyond those that are state minimum standards that the LEA
13 could require. And I can remember a number of late nights
14 over the last 10 years looking -- pouring over proposed
15 amendments for solid waste legislation to make sure that
16 no where in that legislation or the proposed amendments
17 does it preempt our ability, local land use ability to add
18 a stronger requirement, whether it's traffic, whether it's
19 noise, whether it's size. And, again, conditional use
20 permits are adopted at public hearings.

21 I think for discussion purposes we should also
22 distinguish between a required -- statutory requirement
23 for a public hearing and a community workshop that a local
24 government might have and generally does have. And those
25 are the kinds of community hearings that local governments

1 hold to solicit input from their constituents that go
2 above and beyond what the law requires. And I think we
3 need to take a look at that.

4 I would observe that likely if the Board is
5 interested in expanding the public hearing process -- and
6 we're happy to work with the Board on that -- that it
7 probably requires a statutory change.

8 The only thing that we would suggest is if
9 something is going to be expanded, we need to look at
10 what's already required so we don't conflict.

11 Mr. Washington probably remembers this in the
12 Legislature. Okay, one type of hearing requires 45-day
13 notice, another 30-day notice.

14 But it's probably safe to say that the
15 overwhelming majority of local governments, city councils,
16 boards of supervisors are going to have lots of informal
17 public workshops, certainly for new solid waste
18 facilities, before they issue the final hearing.

19 Just, finally, there's been some discussion about
20 possibly having a public hearing at the local task force
21 level. And I have a couple of comments. As former chair
22 of the Yolo County Local Task Force -- I think I'm now
23 just a member, not a vice chair -- for the last 10 years,
24 I would -- this is a personal opinion -- I would counsel
25 against having a local task force have the public hearing;

1 because that's really not within the scope and expertise
2 of the local task force. There are certain statutory
3 requirements already now for transfer stations and certain
4 types of recycling facilities to look at them for regional
5 impacts.

6 If the -- and not only that. The local task
7 force really is a county-wide body, not just for one
8 jurisdiction.

9 But if there is interest in expanding the public
10 notice and public hearing requirements, the League is very
11 happy to engage in those discussions. I just want to
12 reemphasize, we take our public hearing responsibilities
13 very seriously, and there are already existing practices
14 that they're going on and existing requirements in law.

15 And I'm happy to answer any questions.

16 Thank you.

17 CHAIRPERSON PAPARIAN: Mr. Washington.

18 COMMITTEE MEMBER WASHINGTON: Thank you, Mr.
19 Chair.

20 Not so much as a question. But I want to thank
21 Yvonne for the relationship we had over here while I in
22 the Legislature. We had an excellent working
23 relationship. And again I welcome the idea of us working
24 together, perhaps in the statutory -- we've got 25, 30
25 legislators waiting to take this on. So we don't have a

1 problem with finding anyone to author this. We have a
2 number of people over there who want to be involved with
3 this process.

4 And I really am delighted to hear you make that
5 comment that you guys welcome the idea to work with us
6 coming up with a public hearing. That made sense. And
7 that would include the community, the real stakeholders in
8 this.

9 And, again, I said it over and over, and I have
10 no problem with our local city mayors and board of
11 supervisors or councils. I just know that those folks
12 appoint citizens to those planning and zoning commissions.
13 And, again, the timing that they need, things of that
14 nature, it just doesn't work out. And I saw it firsthand.

15 And so I look forward to working with you in that
16 effort.

17 MS.HUNTER: I'm happy to do it. Thank you.

18 CHAIRPERSON PAPARIAN: Thank you.

19 Mark, I realize I had your speaker slip for a
20 different item. You didn't want to speak on this item?

21 MR. APREA: That's correct.

22 CHAIRPERSON PAPARIAN: So the next person I have
23 is Doug Ames, Lassen County Environmental Health, followed
24 by Evan Edgar.

25 Is Doug Ames hear? Yeah.

1 MR. AMES: Members of the Board, I'm Doug Ames,
2 Director of Environmental Health, Lassen County.

3 As a state employee and with the Department of
4 Health Services, we also -- several rural counties
5 contract with the State of California for environmental
6 health and public health and nursing services. As such, I
7 supervise staff in three rural counties. This is
8 environmental health staff. I'm also in charge of the LEA
9 program for a four-county LEA. The counties I supervise
10 directly -- in the environmental health staff I supervise
11 directly are Lassen, Modoc and Sierra Counties. And
12 Plumas county is included in the rural LEA program.

13 The population of Modoc County is about 10,000;
14 Sierra County's around 4,000; Plumas County is about
15 22,000; and Lassen County is approaching 45,000, including
16 all the prisoners.

17 (Laughter.)

18 MR. AMES: I've worked in Lassen County and
19 supervised the rural counties that I'm responsible for the
20 environmental health programs for 25 years. And during
21 that time, I have been involved in all types of
22 meetings -- community meetings in the evening, a lot of
23 city council meetings, board of supervisors meetings in
24 each of these counties. And all of these diverse meetings
25 we have found -- and maybe it's because we have the luxury

1 of small populations -- but we have had excellent
2 community participation and public participation when
3 there's been any item of controversy at all. It's been
4 standing room only in these, and also the evening meetings
5 that we have held.

6 I just say this to say that in some areas the
7 process seems to be working quite well. And that we need
8 to remember that the state, being as diverse as it is,
9 that one size does not fit all; that we honestly don't
10 have a level playing field; and that the rural counties,
11 as I will often say at meetings like this, have been
12 burdened, I will say, with lots of legislation and
13 legislative processes that have been an undue burden on
14 them and the populations in the communities and members of
15 the population there with trying to comply with all of the
16 regulations that we now have before us. And, believe me,
17 we appreciate, and I as an environmental health person
18 appreciate the importance of them.

19 But please remember as you go forward with
20 legislation that there's some areas where things seem to
21 be working pretty well. And if there's any way not to
22 create additional undue burdens to rural communities, it
23 would be greatly appreciated. Because we're trying to do
24 the best we can, and things seem to be working pretty well
25 there right now. And we've had processes where we have

1 had, such as a -- in Lassen County where a medical
2 incineration facility was proposed. Notification was sent
3 out. A use permit was applied for. Lots of big companies
4 that wanted to bring all their medical waste into the
5 county and then incinerate it just outside Susanville in
6 Lassen County. That was killed by groups in the community
7 that acted appropriately to go before the Board and
8 express -- Board of Supervisors and express their
9 opposition to these facilities.

10 So the process is working in some areas. And
11 again we'd just like you to keep that in mind, that if
12 there are ways to exempt certain people that should be
13 exempt from what might be onerous new legislation or
14 processes, because we do have small staffs, keep that in
15 mind, we would appreciate your consideration at anything
16 that you're thinking of along these lines.

17 Thank you very much.

18 CHAIRPERSON PAPARIAN: Ms. Peace.

19 COMMITTEE MEMBER PEACE: Yes, can I ask you --

20 MR. AMES: Certainly.

21 COMMITTEE MEMBER PEACE: Say if the Board or
22 whether it's a statutory change or whether it's something
23 we can do here, if we laid out some guidelines for public
24 participation, some requirements like how big the radius
25 has to be or what languages you need to put it out in or

1 where it's noticed, whether it's in the newspaper, or
2 whether we laid out that you had to have a morning hearing
3 and an afternoon hearing, are those kind of things to much
4 burden on you?

5 MR. AMES: They can be, in holding two meetings
6 particularly. It does seem to work that way anyhow. When
7 we --

8 COMMITTEE MEMBER PEACE: Yeah, that's what I'm
9 saying. For counties that do that anyway, that shouldn't
10 put any more undue burden on --

11 MR. AMES: No, and again because the Board of
12 Supervisors particularly or City Counsel is well known by
13 the people in the community. If the community has a
14 problem with it, they talk with that person. And if
15 there's an evening meeting needed, it happens without
16 being required in any legislative way. Because just the
17 local pressure says "Look, we want to be heard and we want
18 to be heard up in our community hall," out by the lake, or
19 whatever it is, "and that's where we want our meeting and
20 we want it at this time."

21 That's seems to happen pretty well in our
22 counties. And we have --

23 COMMITTEE MEMBER PEACE: And that's because
24 you're small counties.

25 MR. AMES: Because we're small.

1 COMMITTEE MEMBER PEACE: It sounds like you're
2 doing a very good job where you are. But I'm just saying
3 maybe some areas where we feel they're not doing a very
4 good job.

5 MR. AMES: That's easy to understand.

6 COMMITTEE MEMBER PEACE: Would it -- if we put
7 out some regulations as regards to how far you'd have to
8 address some guidelines, that shouldn't really burden --

9 MR. AMES: But just keep in mind that as you word
10 it may or may not have a real deleterious effect on small
11 counties. So just keep that in mind. That if you have to
12 notify out, you know, 50 or 60 miles, you may be going out
13 to one or two houses that are way out there and, you know,
14 just to make that trip to notify those people. And it may
15 not at all be necessary in our areas.

16 We have had the CUPA process we've gone through
17 with CalEPA -- Certified Unified Program Agency process.
18 It has to do with hazardous materials. And we did
19 adequate public notification in every local media, and the
20 state paid for all of this great advertising. And in all
21 three of the counties I supervise, not one person showed
22 up.

23 So, again, we have to keep in mind that if we're
24 spending a lot of money for maybe a small result, and
25 again things are already happening pretty well in our

1 counties -- and again I understand that there are big
2 urban areas where this isn't working well -- seems to be
3 working pretty well in the areas that I have experienced
4 it with at least.

5 COMMITTEE MEMBER WASHINGTON: I can assure you
6 there will be no undue consequences for -- working with
7 Yvonne -- I don't know if you know Yvonne with the League
8 of Cities. She will make sure that the folks who should
9 be protected are protected while we're going through this
10 process.

11 MR. AMES: Good. Thank you. Thank you very
12 much.

13 CHAIRPERSON PAPARIAN: Thank you. Evan Edgar.

14 MR. EVAN EDGAR: Good afternoon.

15 I'm Evan Edgar, Edgar Associates on behalf of the
16 California Refuse Removal Council. We're trade
17 association for the private sector. Over 50 transfer
18 station, 50 MRF's, a dozen compost facilities, and a dozen
19 landfills from San Diego to Susanville. We cover the
20 entire state.

21 We've been very active with CEQA and supporting
22 that local CEQA process.

23 In many cases, on behalf of the operator, we host
24 the community meetings. I have one next weekend in San
25 Jose. I have a registration permit, 150 ton a day; and I

1 have a community meeting right next door. We do that on a
2 routine basis when we front load CEQA and front load the
3 public process, and we get a better result as part of our
4 design. And we mitigate by design when we have our solid
5 waste facility permits. We take it very seriously. We
6 support the League of Cities' action and what they want to
7 do with many -- process to make it better. And we're very
8 supportive of local CEQA.

9 One thing that we also realize, that each city
10 and county is different and you have to have some local
11 flexibility. When we work with a local government, we
12 insist that we get state clearinghouse number through the
13 Office of Planning Research. A lot of local governments
14 don't realize the responsible agency -- where the permit
15 comes to, the Waste Board or the Water Board. So by
16 having a state clearinghouse number and Office of Planning
17 Research, we assure that the state is fully informed. And
18 some local governments aren't aware of that and sometimes
19 they don't circulate it. And when we come up here to the
20 Waste Board, we have to recirculate it to make sure we
21 have the state clearinghouse number.

22 I -- our compost facilities. Sometimes we go
23 back to a quarter mile to a half mile in order to have an
24 odor mitigation plan. Within the new compost regs each
25 facility will need to have a lower mitigation plan. As

1 part of that we go out beyond the 300 feet. We go to a
2 quarter mile and a half mile to the next community -- next
3 residency. So we take that very seriously.

4 One of the handouts I have was put together in
5 1995. I passed it out in the back room. Permits, the
6 markets, and the collection process, they need to work
7 together. And when we look at markets, we look at our
8 permits as a quality control. And we look at the
9 collection of processing, we need to get through put. So
10 as part of the system we've been working on this for the
11 last five, six years on having them work together. We
12 take our permits very seriously and the public process
13 involved.

14 Thank you.

15 CHAIRPERSON PAPARIAN: I can't resist. I'm not
16 an engineer. But as I look at this graphic and I try to
17 make those gears work, it all grinds to a halt when you
18 try to spin any one of those gears.

19 (Laughter.)

20 CHAIRPERSON PAPARIAN: An engineer might want to
21 look at that and try to correct me. But I think you put
22 three gears together in a triangle like that, and they all
23 grind to a halt.

24 MR. EVAN EDGAR: I was working in a place for
25 staff when he produced that back in '96. But I've been

1 trying to make those gears work a long time.

2 (Laughter.)

3 CHAIRPERSON PAPARIAN: Okay. Oh, I do have one
4 more speaker slip. Mike Mohajer.

5 MR. MOHAJER: Good afternoon, Mr. Chair, members
6 of the Committee.

7 I promised not to talk. But I keep breaking my
8 own promises.

9 I couple of issues I just wanted to mention,
10 because land-use issue is very close to my heart and at
11 least those people that I report to down in L.A.

12 That's very few things that is left for local
13 government to make certain decisions or some decisions on.
14 And that one is a land-use decision.

15 But it gets to specifically to the solid waste
16 facility in Los Angeles County, I'm not talking about the
17 cities, just strictly the county unincorporated area.
18 From personal experience, my own experience, I got
19 involved with the Sunshine Canyon back in 1982.

20 In the process of preparing the draft -- initial
21 study and drafting of Environmental Impact Report. By the
22 time it got finished with having the CUP for Sunshine
23 Canyon, that was 1997. It took approximately 15 years.
24 And there were many, many meetings that it went through.
25 And one of the good things that came out of that process

1 now -- Mr. Paparian, I guess you referred to it during the
2 last Board meeting or meeting before, that we have a
3 citizen advisory committee, that BFI is required to pay
4 for the consultant to oversee their operation. And if
5 there was something that they don't like they can complain
6 to the bureaucrats like myself.

7 CHAIRPERSON PAPARIAN: I think you don't want to
8 use the word "oversee." I don't think they oversee the
9 operation. I think BFI would object to that. I think
10 they provide some input into that operation.

11 MR. MOHAJER: Thank you, Mr. Paparian. But,
12 remember, I'm engineer and not a politician. So sometimes
13 I don't --

14 CHAIRPERSON PAPARIAN: You can help me with this
15 graphic. You put three gears --

16 MR. MOHAJER: That way you can have Edgar to
17 go -- maybe he can go to SC. But put it down from the
18 side.

19 And then the other experience was when we were
20 going through the getting a permit -- conditional use
21 permit for a composting facility in Amador Valley, which
22 is 8 miles northwest of city of Lancaster. Nobody within
23 8 miles. But the requirement of the citizens over there
24 was that they wanted to be -- all the composting activity
25 to be conducted inside enclosed building, which required

1 to be one and a half size of a football. And, needless to
2 say, Waste Management ultimately let that one go.

3 So occasionally in the unincorporated area for
4 L.A. County the citizens do get involved. We have a good
5 process. And, again, the land-use is the last piece that
6 at least we have some control.

7 One other issue that is also very important to
8 us, as I mentioned, we have the L.A. County Integrated
9 Waste Management Task Force that I also represent over
10 here.

11 I do agree that the purpose of the task force is
12 not to conduct public hearing and to be a substitute to
13 the public hearing from the standpoint of what the local
14 government has to do or the Waste Board.

15 However, in Los Angeles County, having 88 cities
16 and over 150 different communities -- unincorporated
17 communities, it becomes pretty important in siting a solid
18 waste facility. And our task force has been existent
19 since 1976. They have done a pretty darn good job. They
20 will continue to operate. And from our standpoint, it is
21 a regional agency that it becomes pretty handy. So, Mr.
22 Washington, for example, city of Culver City is totally
23 encapsulated by the city of Los Angeles. The city of Los
24 Angeles proposing to put a transfer station right at the
25 boundary between the city of L.A. And city of Culver City,

1 Culver City has no right. So that's where this task force
2 becomes -- and helps quite a bit.

3 And the regulations that also have been
4 promulgated by this Board for the professional siting
5 element, this is argument that we're going back and forth,
6 one of the requirements of the regulation is, very
7 specifically, Section of 18756 of the Title 14 says, "The
8 siting element shall describe the process instituted
9 countywide or regional-wide to confirm that the criteria
10 set forth in Section A1 through 5 of this section are
11 included as a part of the solid waste disposal facility
12 siting process.

13 And this is for both expansion as well as siting
14 new landfill.

15 Then it goes on. Subsection of Section 18756
16 says -- I'm just quoting -- "No solid waste disposal
17 facility in the siting element shall be established that
18 does not satisfy the minimum criteria that are adopted in
19 the sighting element pursuant to Section 18756A."

20 The L.A. County Integrated Waste Management Task
21 Force, that is the agency that makes that decision as a
22 local level because they are the one that established the
23 siting criteria to make sure that all the facilities at
24 least in County of Los Angeles as a whole they operate at
25 the same level playing field, not that the unincorporated

1 area going to be at the higher rate versus somebody else
2 that is in some other jurisdictions. And one of those
3 siting criteria very specifically also addresses the gas
4 migration beyond the property of the landfills.

5 And I probably would be discussing that next
6 week, on the 13th.

7 Thank you very much.

8 CHAIRPERSON PAPARIAN: Okay. Those are all the
9 speaker slips I have. This was a discussion item. But we
10 can if we want to give some direction to staff about
11 coming back in the future with a more specific item if we
12 desire to do that.

13 Mr. Washington.

14 COMMITTEE MEMBER WASHINGTON: I guess there
15 really is no direction we can give them when I think
16 ultimately we're going to find out that it takes, you
17 know, statute, legislation to make these public hearings
18 happen. And that's how we're going to have to proceed
19 with this.

20 I don't want to waste staff time and this agency
21 time just going over and putting something together, and
22 ultimately we find out there's nothing we can do about it.
23 I'm prepared to go to the Legislature to get the job done.

24 CHAIRPERSON PAPARIAN: Yeah. I'm not sure that
25 that's what I heard. But we can ask counsel the question.

1 If we wanted to, could we require any type of
2 public hearing or additional public notification -- could
3 we require the LEA to hold a public hearing or could we
4 require additional notification of residents around a
5 facility?

6 CHIEF COUNSEL TOBIAS: Well, let me answer that a
7 little bit more broadly. I think there may be things that
8 the Board can do. I think that certainly there's some
9 things that you could request local governments to do.
10 For example, we could do something that would have --
11 either from the Board level or the LEA level, requests
12 with certain types of permits so there'd be a wider
13 notification level. Those types of things.

14 We might look at the question that I think has
15 come up a number of times, of whether we could increase
16 the noticing requirements for certain types of facilities.

17 So I'm a little bit reluctant to express an
18 opinion definitively on whether or not the Board can add
19 hearings. I think I said in my report to you that I
20 thought that there was a statutory scheme that anticipated
21 that the Board in its concurrence function that that
22 hearing takes place at the state level and that it relies
23 on the hearings at the local level. But I think if the
24 Board wants to direct staff to consider that and come back
25 with it, that really the decision is that of the Board in

1 the long run.

2 COMMITTEE MEMBER WASHINGTON: I'm not so much
3 interested in going that direction. I want something in
4 the statute that says -- that has some meat into it, that
5 says that LEA's, they would have a authority whether it's
6 a registration of a solid waste permit or whatever it is,
7 that they would have the authority to stop those folks
8 from opening up those shops if the public is not on board
9 with it. And I don't believe that this board has the
10 authority to do so. If they put together public hearings
11 and the public is not in support of this, that the LEA's
12 or whoever down in our local jurisdiction -- whether it's
13 county, city, state, whoever it is, that they would have
14 some authority to stop these projects from happening like
15 that.

16 And so I think that, again, we do need to sit
17 down with the minds and put it all together to figure out
18 what's the appropriate way of addressing this issue in
19 terms of getting that information and putting it into
20 statute so that it would be a part of our law today.

21 COMMITTEE MEMBER JONES: Mr. Paparian.

22 CHAIRPERSON PAPARIAN: Mr. Jones.

23 COMMITTEE MEMBER JONES: I'm encouraged that Mr.
24 Washington says we ought to get everybody together to
25 really figure out what it is. Because, you know, if a

1 criteria is that somebody is opposed to a facility, and
2 that's the only criteria that an LEA would have to deny a
3 permit, then I will guaranty you there will not be a
4 permitted facility in the state of California. And I know
5 that's not what you want.

6 COMMITTEE MEMBER WASHINGTON: No, absolutely not.

7 COMMITTEE MEMBER JONES: But that's the ultimate
8 result, is that, you know, somebody complains, you ain't
9 got a facility. And believe it or not, death, tax, and
10 garbage, folks.

11 (Laughter.)

12 So, you know, maybe what we ought to do is ask
13 our P&E staff to do a little background information for
14 us, to accumulate -- to talk to the LEA's about for over
15 the last three years every permit, both registration and
16 full, and notification that went out, and what was the
17 process used. How many of those were just mitigated Neg
18 Dec? How many of them were exempt or categorically
19 exempt? How many needed this? But have our staff put
20 together some kind of an idea for us so we know what
21 activity took place locally on those facilities so we can
22 get a better handle about what's going on.

23 Because one of the things about the Crippen site
24 is that the neighbors knew about the Crippen site. The
25 neighbors knew and they let the LEA know. And the LEA

1 tried to take it to the city of Fresno, saying that they
2 were in violation of their CUP. It was the city of Fresno
3 that disagreed. That's very different than neighbors not
4 knowing. The neighbors knew. The city didn't react.

5 So I mean, you know, I have no problem with our
6 staff accumulating that information for us so we get a
7 better idea of what the process has been. Because if we
8 were to go down this road -- which is fine with me; I've
9 got no problem with public comment, believe me -- we've
10 got to be talking with city managers, with CAO's of
11 counties, with public works directors, with LEA's, with
12 the industry, with the environmental groups, with the
13 public groups, to see where they feel the system breaks
14 down and what they need to know. Because just noticing --
15 see, I would not want to see a public hearing on a
16 registration tier permit, because an LEA cannot add any
17 conditions to a registration permit. So why would we want
18 to fool the public? And that's what we would be doing.
19 We'd be fooling the public that their input actually meant
20 something. Because it doesn't mean anything if nobody can
21 react to it. And in a registration tier, an LEA can't do
22 anything about it.

23 So that's why I say I'd like to see what kind of
24 notice has gone out and what's going on with all these
25 permits, so that we're very clear about -- with certain

1 types of permits, there needs to be certain types of
2 activities. If nothing else, we've got to let the public
3 know when they come to a meeting, if in fact they're going
4 to really have any effect on what the conditions are going
5 to be.

6 CHAIRPERSON PAPARIAN: Just to add. I mean I
7 disagree slightly on the registration permit. I think the
8 LEA has the ability to approve or deny. So if for
9 whatever reason people were objecting to the issuance of a
10 permit, the LEA would have the authority to deny that
11 permit.

12 COMMITTEE MEMBER JONES: Yeah. But if they said,
13 "We don't mind it's there. We just want to make sure
14 there's 20 food fire roads," the LEA can't put that in.

15 CHAIRPERSON PAPARIAN: Mr. Walker, are you
16 understanding any direction here at this point?

17 (Laughter.)

18 ACTING DEPUTY DIRECTOR WALKER: Yeah, I can see,
19 Board Member Jones, that the idea is for staff to go back
20 and compile for permits issued, whether they be full or
21 registration over a period of time in the past, to give
22 you a compilation of what CEQA was done, what public
23 participation, public notification, and kind of just come
24 back and give you some data as to what action has been
25 done.

1 CHAIRPERSON PAPARIAN: I think that it might be,
2 just to be clear, perhaps what's being looked for is a
3 sampling of that.

4 ACTING DEPUTY DIRECTOR WALKER: A sampling.
5 Okay.

6 CHAIRPERSON PAPARIAN: Yeah, rather than -- I
7 mean if you went back and looked at all the permits that
8 were dealt with --

9 ACTING DEPUTY DIRECTOR WALKER: No, that would be
10 much --

11 CHAIRPERSON PAPARIAN: -- that would be a pretty
12 onerous task.

13 ACTING DEPUTY DIRECTOR WALKER: Right.

14 COMMITTEE MEMBER JONES: Because -- and a lot of
15 places have done that.

16 CHAIRPERSON PAPARIAN: Would you say that again.

17 BOARD MEMBER JONES: I wasn't -- I mean I don't
18 have a problem if you want to change it to sampling. The
19 reason I say go out and look at it, is I think this Board
20 would be very surprised when our staff talked to LEA's as
21 to how many of these facilities have already gone through
22 a local publicly noticed process. Right now we don't
23 know. It's anecdotal at best. So I mean how many permits
24 have we done in the last three years? Quite a few. But
25 every one of them has got a write up on them.

1 So some you're going to already know that CEQA
2 was done or that the hearings were done, and others you
3 make a phone call, you know. But that would give us as a
4 body probably more information.

5 CHAIRPERSON PAPARIAN: Well, I think figure out a
6 way -- you might want to do like a three or four month
7 period or you might want to do in some other way a sample.
8 And I just don't want to make your burden too great on
9 this.

10 Let me add another thought that I have and, that
11 is, that for people who are already aware of a facility,
12 being apprised of whatever actions might come up with
13 regard to that facility sometimes in some jurisdictions is
14 a challenge. I think some LEA's perhaps do a better job
15 than others in compiling mailing lists or reaching out to
16 mailing lists that another government entity might be
17 compiling.

18 So if we could perhaps look at, you know, options
19 for keeping the interested public informed about
20 facilities that they care about. What I'd love to get to
21 is that if a member of the public is concerned about a
22 specific location, specific facility, that they could
23 provide notification to the government agencies once and
24 then have some assurance that anything that comes up
25 involving that facility, whether it's a local permit, an

1 LEA action, a State Board action, even a Water Board
2 action, that they could have some confidence that they're
3 likely to find out about that without having to go and buy
4 legal newspapers or reading the public notice sections.

5 I don't know if that's possible, if that's too
6 much wishful thinking. But that's something I'd like to
7 explore. It might be that we can even provide some
8 service there through our on-line systems.

9 Any other suggestions for staff in terms of
10 coming back to us on this?

11 So I think maybe -- Scott, maybe look to a few
12 months from now to come back with information that was
13 written here.

14 Okay. Anything else on this item?

15 Okay. I think we should take a break for the
16 court reporter.

17 I think we've gone through some of the quicker
18 items on our agenda.

19 (Laughter.)

20 COMMITTEE MEMBER JONES: Now, it will really get
21 long.

22 CHAIRPERSON PAPARIAN: We'll come back in 10
23 minutes to hear the rest of the items.

24 (Thereupon a recess was taken.)

25 CHAIRPERSON PAPARIAN: Okay. We'll get started

1 again.

2 Ex partes?

3 Mr. Jones.

4 COMMITTEE MEMBER JONES: John Cupps, Jim
5 Hemminger. And I apologize to the public works -- I don't
6 remember his name, the public works director for Amador
7 County.

8 CHAIRPERSON PAPARIAN: Okay. I had actually for
9 Ms. Peace and myself, Dan Avera came up and spoke with
10 both of us simultaneously about that last item.

11 And do you have any others?

12 COMMITTEE MEMBER PEACE: No.

13 CHAIRPERSON PAPARIAN: Okay. Mr. Washington.

14 COMMITTEE MEMBER WASHINGTON: Yeah, I have Doug
15 Ames, Yvonne Hunter, Daniel Avera, and Michael
16 Schmaeling -- butchering his name. He's with the Santa
17 Barbara County Public Health. They came up and just
18 greeted me and just talked about the last item also.

19 CHAIRPERSON PAPARIAN: Okay. Moving right along.

20 ACTING DEPUTY DIRECTOR WALKER: Item D is
21 consideration of a revised full solid waste facilities
22 permit (disposal facility) for the Shafter-Wasco Sanitary
23 Landfill, Kern County. This is February Board Item 5.

24 Chris Deidrick will provide the staff
25 presentation.

1 MR. DEIDRICK: Chairman Paparian, Committee
2 members. The Shafter-Wasco Sanitary Landfill was last
3 issued a permit on July 12th, 1994. The facility is owned
4 by Kern County and operated by the Kern County Waste
5 Management Department.

6 The facility primarily serves the western central
7 portion of Kern County and is located in an extensive
8 agricultural area.

9 The proposed permit allows for the following
10 changes:

11 1) Increase the maximum permitted tonnage from
12 714 to 888 tons per day.

13 2) Change the estimated closure date from the
14 year 2030 to 2027.

15 3) Change the design capacity of the facility
16 from 10,239,000 cubic yards to 11,635,500 cubic yards.

17 And, finally,

18 4) There's a change in the operating hours.

19 Staff would like to make the Board aware that on
20 January 7, 2003, during a routine quarterly monitoring
21 event, the operator detected a concentration of methane
22 gas at the northern perimeter boundary. It was in excess
23 of state minimum standards for methane.

24 On January 23rd the operator, the Kern County
25 Local Enforcement Agency, and myself, we went to that same

1 northern perimeter area to once again monitor for gas.

2 And at that time we found that the facility was in
3 compliance with state minimum standards for methane gas.

4 To more closely monitor the landfill gas at the
5 facility the operator plans on increasing the frequency of
6 monitoring. In addition, the operator plans to begin
7 construction of a landfill gas control system at the
8 facility in the 4th quarter of this year.

9 Board staff have determined that all requirements
10 for the proposed permit have been fulfilled. Board staff
11 recommend that Board adopt Board Resolution Number
12 2003-70, concurring with the issuance of Solid Waste
13 Facilities Permit Number 15-AA-0057.

14 Here today and available for questions is Diane
15 Wilson of the Kern County Local Enforcement Agency. And
16 I'll also be happy to answer any questions.

17 This concludes my presentation.

18 CHAIRPERSON PAPARIAN: At your most -- the most
19 recent monitoring where you said it was below the minimum
20 standard --

21 MR. DEIDRICK: Correct.

22 CHAIRPERSON PAPARIAN: How far below? Was it
23 close, was it --

24 MR. DEIDRICK: The standard for the permitted
25 boundary is 5 percent by volume. And the operator had 2.7

1 percent.

2 CHAIRPERSON PAPARIAN: Okay. And then when it
3 was over, was it over by much when it was over the --

4 MR. DEIDRICK: It was 5.9 percent. And this was
5 the first time that they ever got a hit in -- above 1
6 percent at that permitted boundary. And a lot of factors
7 could create that. One being that if there was a rain
8 event just prior to the monitoring. And also on that same
9 side they did add some additional downdrains on the side
10 slope.

11 CHAIRPERSON PAPARIAN: Okay. Then you said that
12 they've commenced to increase the frequency of their
13 monitoring and take some other measures?

14 MR. DEIDRICK: Correct. And I believe this --
15 that you'll increase, that instead of quarterly, to
16 monthly monitoring events.

17 CHAIRPERSON PAPARIAN: Okay. And is that --
18 we're confident that through the LEA, you know, they will
19 do that?

20 MR. DEIDRICK: Yes.

21 CHAIRPERSON PAPARIAN: Okay. Any other
22 questions?

23 COMMITTEE MEMBER JONES: Mr. Chair.

24 CHAIRPERSON PAPARIAN: Mr. Jones.

25 COMMITTEE MEMBER JONES: I'll move adoption of

1 Resolution 2003-70, consideration of a revised full solid
2 waste facility permit (disposal facility) for the
3 Shafter-Wasco Sanitary Landfill in Kern County.

4 CHAIRPERSON PAPARIAN: Is there a second?

5 I'll second it.

6 Secretary, call the roll.

7 SECRETARY KUMPULAINIEN: Jones?

8 COMMITTEE MEMBER JONES: Aye.

9 SECRETARY KUMPULAINIEN: Peace?

10 COMMITTEE MEMBER PEACE: Aye.

11 SECRETARY KUMPULAINIEN: Washington?

12 Paparian?

13 CHAIRPERSON PAPARIAN: Indicate Washington's not
14 voting.

15 And then I vote aye.

16 So that's a 3 to 0 with one abstention.

17 Refresh my memory about consent on a situation
18 like this.

19 EXECUTIVE DIRECTOR LEARY: It was my
20 recommendation originally when we set up the Committee
21 system and talked about defining consent, that with no
22 negative votes or an abstention for a conflict, that would
23 constitute consensus or a recommendation for consent.

24 With an abstain for another reason besides a
25 conflict of interest, that we would go ahead and put that

1 item before the full Board.

2 CHAIRPERSON PAPARIAN: Okay. So we'll put this
3 item before the full Board, okay, with a 3-0
4 recommendation from the Committee -- a 3-0 and an
5 abstention recommendation from the Committee.

6 Okay. Next item.

7 ACTING DEPUTY DIRECTOR WALKER: Item E is
8 consideration of a revised full solid waste facilities
9 permit (disposal facility) for the Amador County Sanitary
10 Landfill, Amador County. This is the February Board Item
11 6.

12 Virginia Rosales will give the staff
13 presentation.

14 MS. ROSALES: Good afternoon, Mr. Chair and Board
15 members.

16 The Amador County Landfill, also known as Buena
17 Vista Landfill, is own and operated by Amador County
18 Public Works Department. The day-to-day operations are
19 contracted to Amador Disposal Company, a subsidiary of
20 Waste Management, Incorporated.

21 Currently there are four discrete phases in the
22 design of the landfill. Phase 1 is closed 16-acre unit,
23 Phase 2 is a clay-lined unit. Phase 3 is a
24 composite-lined unit.

25 Together Phase 2 and 3 make up a total of 13

1 acres, which is the active area, with an estimated closure
2 date of 2004.

3 The 3 phases create the current 29-acre waste
4 disposal area. Although there is potential to expand into
5 Phase 4 beyond the existing 29 acres, no designs have been
6 included for that in this permit revision.

7 In summary, the proposed permit will allow for
8 the following:

9 Define waste footprint to be 29 acres instead of
10 the disposal area to be 74 acres; increase the total
11 permitted area from 113 acres to 261.97 acres to
12 incorporate a chipping and grinding of wood waste
13 operation and wood waste storage area, and add 116.85 acre
14 reserve area west of the Buena Vista road; increase the
15 maximum elevation from 400 feet to 440 feet; allow for the
16 use of alternative daily cover; update the report of
17 disposal site information, by describing the current
18 operations, including, but not limited to, the
19 interrelationship between the adjacent permitted MRF
20 (transfer station) and the landfill, incorporate the
21 chipping and grinding area to wood waste storage area, and
22 identify the septage treatment facility that's now located
23 at the landfill; specify the receipt of waste from the
24 transfer station to be after 6 a.m., clarify that no
25 operation shall occur in hours of darkness, and that the

1 landfill is not open to the general public; clarify that
2 the 200 vehicles per day limit includes vehicles for the
3 landfill, the MRF (transfer station) and the septage
4 treatment plant.

5 Since this item was prepared Board staff have
6 determined that the proposed permit is in conformance with
7 the county's countywide siting element. Additionally, the
8 funding for the closure/post-closure maintenance and the
9 operating liability were found to be adequate.

10 However, Board staff reviewed and analyzed the
11 permit package and provided comments to the LEA.
12 Therefore, amendments to the RDSI and a revised proposed
13 permit are forthcoming.

14 Board staff are working closely with the LEA and
15 operator to resolve a few issues. A focus inspection by
16 the LEA and/or Board staff is pending to determine the
17 status of the daily cover violation that was cited in the
18 pre-permit inspection conducted in December of 2002.

19 Staff need to have these issues resolved in order
20 to make a determination of consistency with state minimum
21 standards, completeness of the RDSI, and adequacy of CEQA.

22 Providing these issues can be resolved this week,
23 then staff finds all the requirements have been satisfied
24 and staff will recommend concurrence to the issuance of
25 the permit. Board staff will prepare an updated agenda

1 item for distribution, which will include the revised
2 proposed permit, and will provide a recommendation to the
3 board at the February 11th Board meeting.

4 This concludes staff's presentation.

5 Rod Schuler, Director of Amador County Public
6 Works, representing the owner-operator; and Margaret Blood
7 and Cheryl Hawkins representing the Amador County LEA are
8 here today and available to answer any questions you may
9 have.

10 CHAIRPERSON PAPARIAN: Let me just try to clear
11 up what it is before us today. What I think I heard you
12 say is that the permit that's in our packet is not the
13 permit that we should be voting on.

14 MR. de BIE: The message that staff is trying to
15 send you is this is a work in progress, and that there are
16 changes that we anticipate coming relative to both the
17 supporting documentation and potentially the permit, as
18 well as an outstanding issue on state minimum standards,
19 and that we're looking for additional time in order to
20 complete the record and make a firm recommendation to the
21 Board. We do not have a firm recommendation to date for
22 you.

23 CHAIRPERSON PAPARIAN: Okay. So it's not
24 consistent with state minimum standards at the moment,
25 and --

1 MR. de BIE: If you were to ask staff for
2 recommendation today one way or the other, we would have
3 to recommend that you deny this permit because based on a
4 past inspection there was a violation of cover. But we're
5 aware that the operator is effecting that. And we want an
6 opportunity to go back and confirm that they have
7 addressed that before the final vote is taken by the Board
8 next week.

9 CHAIRPERSON PAPARIAN: Okay. The permit that's
10 in our package here -- it sounds like there's more than
11 that standards violation. There's something wrong with
12 the permit?

13 MR. de BIE: Well, wrong is sort of a subjective
14 term. What we found in our review in -- Virginia could
15 give you more details -- is some inconsistencies between
16 the reported facility information, the technical
17 supporting document, and the language in the permit. They
18 don't -- they don't agree on a couple key points. And so
19 we've identified that for the benefit of the LEA and the
20 operator, and anticipate them to resolve those
21 inconsistencies.

22 CHAIRPERSON PAPARIAN: Okay. So if this permit
23 were standing by itself here in front of us on that issue,
24 would you be recommending that we approve the permit or
25 would you be recommending that we deny it because of the

1 inconsistencies?

2 MR. de BIE: I think we could build for the Board
3 a strong case that because of the inconsistencies, it
4 would not meet the Board standards, and we would recommend
5 non-concurrence. But, again, it's a work in progress. We
6 fully anticipate those issues to be worked out.

7 CHAIRPERSON PAPARIAN: Okay. So is this a case
8 where we don't have a full and complete package before us?

9 MR. de BIE: No, we have a full and complete
10 package. We have within the package inconsistencies. So
11 if you read the RFI, it says one thing; if you read the
12 permit, it says another. We need to have those resolved
13 so we know what the reality of the situation needs to be
14 in to the future.

15 CHAIRPERSON PAPARIAN: So I guess where I'm going
16 to is, should we be restarting the clock at some point on
17 our 60 days --

18 MR. de BIE: Certainly if --

19 CHAIRPERSON PAPARIAN: -- if what we've got
20 before us, whatever date it came in the door, is not what
21 we're going to be voting on?

22 MR. de BIE: Certainly if the resolution ends
23 up -- and that's what we anticipate it to be -- ends up a
24 new permit and some, potentially, revisions to the RFI, it
25 is the option to restart the clock. Then we can view that

1 as an amendment to the package, and that allows the
2 timeframes to continue.

3 Staff is confident that we've done the bulk of
4 the review. We know that one or two key issues that need
5 to be resolved. So we don't anticipate too much staff
6 time in order to be confident in the quality of the
7 product after it comes in. But certainly if the Board
8 feels that they need additional time to look at those
9 changes, we can look at extending the clock.

10 COMMITTEE MEMBER JONES: Mr. Paparian.

11 CHAIRPERSON PAPARIAN: Mr. Jones.

12 COMMITTEE MEMBER JONES: What exactly -- I mean
13 it sounds to me like this is a -- is the LEA here? I mean
14 does the LEA concur that there are differences between the
15 permit that was put forward and the RFI?

16 MS. BLOOD: Should I come forward?

17 CHAIRPERSON PAPARIAN: Yes, please.

18 Identify yourself for the record.

19 MS. BLOOD: My name is Margaret Blood. I'm with
20 the Amador County LEA.

21 And we have -- I've been working with Virginia
22 quite closely for a number of months trying to get some
23 fine tunings and details addressed in the RDSI as well as
24 the permit.

25 The distinctions -- one was a statement in the

1 permit that the site is not open to the public, when the
2 intent was that it be clear that it is not generally open
3 to the -- that the working face is not generally open to
4 the public.

5 So that needed to be clarified.

6 The other point was a recommendation from
7 Virginia to add to the daily log a requirement that the
8 operator indicate everyday what happens. Even if nothing
9 happens, that they should say nothing happened. Prior to
10 that we had just required that the daily log indicate
11 special occurrences.

12 And there was one -- oh, and the other was an
13 addition on the permit to identify a CEQA document that
14 had been done in I think 1993, which was not listed in our
15 list of documents.

16 So my point is just that the differences in the
17 permit are really tiny. We are really hoping that --
18 because this permit itself does not really increase any
19 kind of operations at the landfill. It's really to
20 clarify the operations that are now occurring at the
21 landfill.

22 And that's why we felt that we had enough
23 information to bring this to you.

24 COMMITTEE MEMBER JONES: So one of the issues --
25 your permit said that the working face isn't open to the

1 public?

2 MS. BLOOD: Well, my permit said the landfill is
3 not open -- is not generally open to the public. So I
4 just scratched that off of my hours of operating -- you
5 know, my statement --

6 COMMITTEE MEMBER JONES: Oh, okay. Because right
7 now it's permitted to take the public.

8 MS. BLOOD: Right. But they do not allow the
9 public up to the working face.

10 COMMITTEE MEMBER JONES: Understood. So that's
11 one of the drop-dead issues?

12 MS. BLOOD: Right, correct.

13 COMMITTEE MEMBER JONES: And then the other one
14 is -- okay. So they're pretty much administrative. Okay.

15 CHAIRPERSON PAPARIAN: Ms. Peace.

16 COMMITTEE MEMBER PEACE: Margaret, looking
17 through here there -- seems to be year after year there's
18 violation after violation after violation after violation.
19 Now, why is that? Why are there so many violations here?

20 MS. BLOOD: Well, you know, if you do a thorough,
21 you know, comprehensive monthly inspection of a landfill
22 site, things pop up that, you know, that need to be
23 addressed by the operator. And the way to bring that to
24 their attention is to write it up in the inspection
25 report.

1 So, although I don't believe that the landfill is
2 poorly managed, those issues are a variety of things that
3 do come up that need to be addressed. And the method that
4 we use is in the inspection report.

5 CHAIRPERSON PAPARIAN: This does -- from my
6 experience, it does seem to be an unusually consistent
7 high number of state minimum standards and permit
8 violations. And I guess the question for our staff is,
9 does this LEA before us seem to be an overly aggressive
10 LEA or is the operator having difficulty keeping things
11 under control at this landfill? Or is there a third
12 option I'm not thinking of?

13 MR. de BIE: I think you picked, in my mind, sort
14 of two extremes. So I wouldn't pick either of those. I
15 think you have a site that has at times difficulty in
16 meeting the compliance requirements; and you have an LEA
17 that is not necessarily over aggressive, but certainly
18 doing, you know, a conscious effort to document and bring
19 to the operator's attention those areas that they fall
20 down on.

21 Why do we see the numbers of violations in this
22 one as opposed to other ones?

23 Each site is so different. It could be some
24 sites don't have these kinds of issues. It could be that
25 the LEA isn't noting them or noting them as more of an

1 area of concern initially, and then having them resolved
2 so they don't reach the level of violation. It could be a
3 whole host of factors that go into developing this
4 compliance record.

5 I think the way I read this record is that -- the
6 violations don't necessarily focus on one particular area
7 but they seem to be addressing various areas. And I think
8 it's fair to say -- and I don't know if it's the case in
9 this situation -- but an operator will shift their
10 attention and resources from one area to another. So if
11 an LEA brings to their attention that there's drainage
12 issues, they'll focus on that, resolve that issue. But in
13 doing so another aspect of their operation may slip a
14 little bit and they'll need to catch up to that.

15 So that may be something that we're observing
16 here. But certainly Margaret could give you a little more
17 detail about what she's observing there on a monthly
18 basis.

19 ACTING DEPUTY DIRECTOR WALKER: I'd like to add
20 too that we're going to have an item of discussion of LEA
21 valuations after the next one. And Amador County was on a
22 workplan for their program. And one of key things they
23 need to do to have their program meet the minimum
24 requirements of the Board certification is to get this
25 permit in revised, because it was out of -- in violation

1 of the terms and conditions.

2 So this is an example of part of I guess a
3 success story if we could get this permit through in terms
4 of the LEA valuation process in getting them to correct
5 the program efficiency. So this was identified, this
6 permit, as a problem with the LEA jurisdiction, and this
7 is a way to correct it is to get this permit to us and
8 revised.

9 CHAIRPERSON PAPARIAN: This is a -- it's a
10 county-owned facility, but operated by a private
11 contractor, as I understand it.

12 MS. BLOOD: It's county-owned and operated. But
13 it is under contract -- the daily operations are
14 contracted through a contract operator.

15 CHAIRPERSON PAPARIAN: Okay. Now, this has been
16 a red flag for me at times. Is there any -- I mean if
17 this were a private owner and operator, do you think we'd
18 still be seeing the same number of problems? That's a
19 loaded question for you, I know, Mr. Walker. But I mean
20 with the privately-owned landfills I rarely see
21 consistently this many violations.

22 MS. BLOOD: May I address that?

23 CHAIRPERSON PAPARIAN: Sure.

24 MS. BLOOD: One thing I've noticed with privately
25 owned -- now, I've worked with Amador County for a number

1 of years. But when the company, the Amador Disposal
2 Service, that was operating the landfill for, you know,
3 many years in the past, was then bought by Waste
4 Connections, Waste Connections was very sensitive to the
5 fact that people were aware of violations in inspection
6 reports, that somebody was going to count how many
7 violations there were. And we were in discussion with
8 them about how the inspection -- you know, they wanted to
9 talk about how that inspection report was written, you
10 know, and if we had things to say, you know, that we
11 should make certain comments. And we were given that kind
12 of guidance or, you know, asked to consider that. And so
13 I think you might be quite right that when you come to a
14 private -- when you work with private industry, they don't
15 want to see that in the written record. Whereas when you
16 work with a public agency, I think they are a lot more
17 willing to allow the record speak for itself. Maybe, you
18 know -- I don't think that you have an operation that's a
19 whole lot different.

20 CHAIRPERSON PAPARIAN: Mr. Jones.

21 COMMITTEE MEMBER JONES: Who's responsible for
22 writing the permit for this landfill?

23 MS. BLOOD: Myself.

24 COMMITTEE MEMBER JONES: No, who for doing the
25 RDSI.

1 MS. BLOOD: The county landfill.

2 COMMITTEE MEMBER JONES: The County or Waste
3 Connections?

4 MS. BLOOD: The Public Works.

5 BOARD MEMBER JONES: Okay. The county.

6 MS. BLOOD: Yes.

7 COMMITTEE MEMBER JONES: So when you look at
8 these violations, you know, five violations for part a of
9 disposal site information. Is that the RDSI?

10 MS. BLOOD: Correct.

11 COMMITTEE MEMBER JONES: Okay, 9 for the RSDI, 11
12 for terms and conditions. What were the terms and
13 conditions? That they didn't have enough to update a
14 permit?

15 MS. BLOOD: Correct.

16 COMMITTEE MEMBER JONES: All of these violations
17 are trying to get pressure on the county to do its job and
18 write the permit?

19 MS. BLOOD: Exactly.

20 COMMITTEE MEMBER JONES: I mean I think you got
21 to really understand that -- you're doing your job,
22 writing these violations up. But it's not the private
23 operator that's responsible for these things as much as it
24 is the county.

25 MS. BLOOD: Well, those -- correct. For those

1 issues, correct.

2 COMMITTEE MEMBER JONES: So I just took exception
3 to the fact that private companies maybe don't want LEA's
4 to write things a certain way. Normally the way that we
5 used to do it was we'd just correct the violation, you
6 know. It made it a lot easier than arguing with an LEA,
7 because they were all different.

8 CHAIRPERSON PAPARIAN: That was where I was
9 going.

10 COMMITTEE MEMBER JONES: Exactly. But that's why
11 I wanted to point out. These violations are
12 administerial, of people not doing their job.

13 CHAIRPERSON PAPARIAN: That I do disagree -- I
14 disagree with some of them. But when I look at the list
15 here that we've got 4 violations of explosive gas control,
16 6 violations of drainage and erosion control, grading of
17 fill surfaces, leachate control. A lot of these seem to
18 be more substantive than --

19 COMMITTEE MEMBER JONES: That could be pumping.

20 It's --

21 CHAIRPERSON PAPARIAN: It's more than just what I
22 think are the record keeping of permit-type violations
23 that you were pointing to. I think that were some actual
24 on-the-ground violations, at least as I'm reading the
25 compilation that we have here.

1 COMMITTEE MEMBER JONES: I agree.

2 CHAIRPERSON PAPARIAN: Mr. Washington.

3 COMMITTEE MEMBER WASHINGTON: I guess the
4 question I have then for staff is, why would we have -- is
5 there some time sensitivity to this particular permit?

6 I guess my question is, why is this permit before
7 us knowing that there's a lot of work to be done on it?

8 MR. de BIE: Let me try to recharacterize what
9 needs to be done. One is we need to verify whether or not
10 there's a continuing noncompliance situation with daily
11 cover. That just requires staff to go out and do an
12 inspection. Because of scheduling we weren't able to do
13 that prior to the Committee.

14 The others, as you've heard Margaret explain,
15 very minor tweaking of the permit and the RDSI to make
16 them compatible. So it's really very, very close.

17 So we don't need a whole month. Staff doesn't
18 need a whole month to get those things resolved.

19 COMMITTEE MEMBER WASHINGTON: But wouldn't it be
20 to staff's benefit to bring to us a document that's
21 completed rather than one that's a work in progress?

22 MR. de BIE: Certainly.

23 COMMITTEE MEMBER WASHINGTON: I mean I just don't
24 believe that I came to this Board to be thrown
25 work-in-progress material. I kind of want to vote on

1 something that is a done deal, and then it's brought to
2 this Board. I mean -- I understand what you're saying,
3 Mark. I'm just saying that I'm prepared to vote on all
4 these work-in-progress products when I don't think the
5 money is going to put them out -- especially a county out
6 of business, that they could fix it and bring it to us so
7 we won't have to take up Martha's, you know, time in
8 discussion when we could fix it and then bring it before
9 this body for a vote.

10 MR. de BIE: And to clarify, staff isn't
11 necessarily asking this Committee to make a commitment on
12 this permit. We're providing you with staff input on
13 this, fully expecting that it would need to go to the
14 Board for an action and that all the issues would be
15 resolved by then. Certainly, if they're not resolved,
16 staff would be fully prepared to recommend non-concurrence
17 or work with the LEA and the operator to defer it until it
18 could be worked out.

19 CHAIRPERSON PAPARIAN: I do have two speaker
20 slips.

21 Why don't we hear from the speakers, and then
22 we'll go figure out what we're going to do with this.

23 Rod Schuler, Amador County Public Works Agency.

24 Mr. Schuler, you indicated that you'll speak if
25 necessary.

1 Do you feel it's necessary, given all the
2 comments you've just heard?

3 MR. SCHULER: Unless somebody has some questions,
4 I do --

5 CHAIRPERSON PAPARIAN: Well, why don't you go
6 ahead and step forward, just in case.

7 And if you could identify yourself for the
8 record.

9 MR. SCHULER: Rod Schuler, Director of Public
10 Works, Amador County. And appreciate the discussion that
11 just took place.

12 I'm the new kid on the block. I was handed the
13 waste management responsibility recently.

14 COMMITTEE MEMBER WASHINGTON: Sounds like me.
15 (Laughter.)

16 MR. SCHULER: And we're doing our best to try to
17 clean things up. And a lot of this is housekeeping-type
18 matters. So I appreciate your discussion on this.

19 I didn't plan -- I didn't have a prepared
20 presentation or anything, unless you had some questions.
21 I realize it's a little confusing with all of those
22 violations listed. But I would bring to your attention
23 that the last year, which I was responsible for, is about
24 half the violations. So I don't know if that helps.

25 And we do have some people from Amador County

1 that I guess are on the list for speaking. So we do have
2 outreach.

3 CHAIRPERSON PAPARIAN: Okay. Any questions of
4 Mr. Schuler?

5 Okay. Thank you for being here. We may have
6 questions for you later.

7 MR. SCHULER: Okay. Thank you.

8 CHAIRPERSON PAPARIAN: Jerry Cassesi.

9 MR. CASSESI: I answer to a lot. It's kind of a
10 difficult name to pronounce.

11 I appreciate you folks taking the time to give me
12 the chance to speak here. I know your time is valuable.
13 I'll try and keep this short. But I think there's some
14 very important points we need to talk about in terms of
15 this Amador County landfill.

16 A little bit of history. It goes back a while.
17 There was a closed cell one. There was a leachate -- they
18 discovered a leachate plume, and it crossed Ione, Buena
19 Vista Road, and had left the property and was on someone
20 else's property. They negotiated that out with the
21 county, and the county purchased that property. So this
22 goes back some years. I'm sure you're familiar with it.
23 But that gives you the history of it.

24 Then about April of this last year, April of '02,
25 somewhere in there, April, May, the Board of Supervisors

1 requested a meeting with the people from the Oaks
2 community, which is adjacent to the landfill, kind of
3 catty-corner from the landfill.

4 Now, I live in Jackson Valley. I'm about
5 probably a quarter mile by roadway, maybe an eighth of a
6 mile as the crow flies from the landfill. But I wasn't
7 noticed about this meeting. And now I see why. Five
8 hundred feet, I wasn't noticed. So I guess they had no
9 obligation to notice me.

10 But I found out about the meeting and I went to
11 the meeting. And we were informed at that time that the
12 reason -- the county wanted to sell the landfill and
13 expand it. And the reason given at that time was that the
14 state had hired more inspectors. They were changing the
15 regulations. And there were violations there. And their
16 solution -- the Board of Supervisors' solution to that was
17 to sell it to a private party to get out from under the
18 liability of the landfill.

19 Of course we were opposed to that. But, anyway,
20 that was the proposal, that meeting from the Oaks.

21 And we were also told either at that meeting or
22 later that they had to increase the size of the landfill
23 greatly to make it salable, to get a high enough sell
24 price. I think they said they take in like 120 tons a day
25 now. It takes somewhat over 200 ton a day to make it a

1 economically viable operation. They want to sell it and
2 make it a regional landfill, and it could go up to 800 ton
3 a day or even more, taking in garbage from outside Amador
4 County.

5 We also discovered at that time there was a
6 tentative cease and desist order from regional water
7 quality people. And in that tentative cease and desist
8 order there's eight items which we felt were very
9 significant. We thought it was significant that Regional
10 Water Quality would issue cease and desist order in the
11 first place.

12 If I could just take just a few minutes to read
13 you some of the high -- I won't read you the whole thing,
14 but I'll give you some of the highlights of that cease and
15 desist order.

16 One was: The dischargers operating the landfill
17 and their Class 2 surface entitlement without a functional
18 groundwater detection monitoring system as required.

19 Two: The closed Phase 1 waste management unit
20 and Phase 3 waste management unit do not have monitoring
21 wells installed at their respective point of compliance.

22 Three: The Class 2 surface entitlement is
23 operating without the required operations plan or
24 fail-safe control.

25 Four: The groundwater extraction trench

1 down-gradient of the northwestern portion of the landfill
2 was constructed without the 1 by 10 four-square
3 impermeable geo-membrane.

4 Five: Because of poor maintenance the final
5 cover has surface cracks that extend deep into the low
6 permeable layer. Landfill gases are escaping the unit.

7 Six: Five feet of separation from the highest
8 anticipated groundwater level to the bottom of the waste
9 has not been maintained as required by WDR.

10 Seven: The discharger has reported in the
11 quarterly groundwater reports that dichlorochloromethane
12 has been detected in monitoring wells 1, 10, and 11. And
13 I'm not sure I pronounced that chemical term there
14 correctly. But it's -- doesn't sound good to me anyway.

15 And eight: The landfill gas extraction system
16 specified in the January 1995 closure plan has not been
17 installed.

18 Now this tentative cease and desist order was
19 done sometime in April or May of 2002. I'm not sure of
20 the date because it doesn't have a number on it, and it
21 didn't have -- when I got it it didn't have a cover
22 letter. So I don't know the exact date the county done
23 it. I know it was early of '02, sometime before our
24 meeting at the Oaks.

25 So you've got a facility there that has already

1 had problems with the leachate plume. They've already had
2 to buy the property adjacent to it.

3 And here they are in '02, they still don't have
4 things like a gas extraction system, that was supposed to
5 have been in place in 1995.

6 So I don't think it's a matter of not knowing
7 what they have to do. It's a matter of willingness to
8 comply, willingness to spend the money to comply. And
9 it's also a matter of monitoring.

10 Now, since this tentative cease and desist order,
11 Regional Water Quality has issued a tentative -- I think
12 it's called monitor and reporting program, that
13 incorporates all these eight items plus some additional
14 ones.

15 I don't know why they're tentative. I don't know
16 why they would allow the county to go on year after year
17 after year with these violations -- serious violations --
18 and not just say, "Hey, enough's enough. Close that
19 Facility down."

20 You also got a letter from Ms. Blood. And I --
21 at this point I want to thank Ms. Blood and Mr. Schuler
22 for the cooperation they've shown me. Any information I
23 asked for, they were very helpful in trying to get it for
24 me.

25 But her letter stated that there's no written

1 opposition, I believe. It says, "No written comments from
2 the public have been received on this application.
3 However, Joan Gardner with the Amador County Grand Jury
4 and Mr. Cassesi, a local resident, have expressed interest
5 in developments at the landfill."

6 Well, I went to the grand jury. And I have more
7 than expressed interest. I've expressed opposition. And
8 there's more than me in opposition.

9 We talked earlier about notification, which the
10 land owners outside the Oaks did not get for that meeting.
11 But we had something like 40 plus people at the TAC
12 Committee meeting before this came up.

13 And you're right, Mr. Washington, it's extremely
14 difficult to get people -- working people to a meeting
15 when those meetings are held during the day. People
16 cannot take the time off. Unless you're an old codger
17 like me and you're retired and you can do it.

18 But there's another issue too. You talked about
19 notices. One way you can eliminate noticing people is you
20 can change the zone. You have the general plan. You
21 change the zoning. And then that operation is legal in
22 that new zoning. No use permit. You don't hear from the
23 public. And that's exactly the case that we have here.
24 They've changed the zoning. So it's permissible now. And
25 if they can purchase that 200 and something acres, the

1 county will purchase it, it will be zoned for a landfill,
2 all us residents are out in the cold. They don't have to
3 get a use permit. They can go ahead and do their thing.

4 Even in the face of all these serious violations,
5 they can still operate and go ahead and do it. It's just
6 mind boggling to us.

7 COMMITTEE MEMBER PEACE: Excuse me. That cease
8 and desist order that you read where it said they didn't
9 have groundwater monitoring system and they didn't have
10 the adequate -- the landfill gas system wasn't installed
11 and the groundwater report showed that there was chemicals
12 in the water, that was a cease and desist order from the
13 Water Board, did you say?

14 MR. CASSESI: Yes, it was a tentative cease and
15 desist order --

16 COMMITTEE MEMBER PEACE: 1999?

17 MR. CASSESI: No, this -- it was -- see, there's
18 no date on this. But it was my understanding this was
19 issued early of 2002, some time before our April meeting.

20 COMMITTEE MEMBER PEACE: I guess my question is:
21 How come that's not mentioned in any of our notes here for
22 the meeting, this cease and desist order from the Water
23 Board? Is that listed in here somewhere?

24 MR. de BIE: It is not. And this is the first
25 time I'm personally hearing about this tentative order. A

1 tentative order isn't necessarily one that's been issued.

2 It's like a draft order. So --

3 COMMITTEE MEMBER PEACE: Did we even know about
4 that at all?

5 MR. de BIE: We may have it. I can't tell you.
6 I'm looking for Virginia or Margaret to let you know what
7 they're aware of. But it wasn't part of what I heard
8 about this particular facility.

9 And just a little background is -- you know,
10 these are issues with the Regional Water Quality Control
11 Board, fully within their responsibility and authority.
12 If we as Waste Management Board attempted to address
13 something in those areas, we would be in conflict with
14 them. You know, just based on the list that was given to
15 you, I'm not seeing anything that's within the Board or
16 the LEA's authority to address. All of those --

17 COMMITTEE MEMBER PEACE: I don't see how that
18 could be against anything for just to notice for your
19 information there has cease and desist order from water
20 board.

21 MR. de BIE: No. And -- I'm looking to staff to
22 let you know why that was left out. But I'm just saying
23 that -- and that's not an excuse why it's not there. It's
24 just to give you some background about the relationship
25 between the Regional Board and the Waste Management Board,

1 and it's in terms of water issues and non-water issues.

2 ACTING DEPUTY DIRECTOR WALKER: We will contact
3 the Regional Board and find out the status of that cease
4 and desist order and what their enforcement status is and
5 provide to the full Board the update. And we apologize
6 that, you know, this has come up and -- but at this point
7 this is about the best we can do at the moment, unless
8 staff has some --

9 CHAIRPERSON PAPARIAN: Just one follow-up on what
10 Mark's suggesting. And I understand that certain things
11 are in the Regional Water Board's jurisdiction, certain
12 things are in our jurisdiction.

13 One of the items on the list that was read was
14 cracks in the final cover of Unit 1. Would that be in our
15 jurisdiction if that was --

16 ACTING DEPUTY DIRECTOR WALKER: Yeah, it could
17 potentially be. And I'd probably defer to the LEA and ask
18 Margaret, you know, who's doing the inspections out there,
19 whether she's identified a similar problem that would
20 be -- I don't see it in her inspection reports.

21 CHAIRPERSON PAPARIAN: But the permit before us,
22 does that deal with Unit 1?

23 Go ahead, let's answer the -- go ahead and answer
24 the question.

25 The question was: Are you noticing cracks in the

1 cover on Unit 1?

2 MS. BLOOD: Yes, we have noticed those. We do
3 quarterly inspections of Phase 1 as a closed landfill. We
4 have being noted that that showed up on Virginia's list of
5 violations. And the landfill has, in working with the
6 Water Board, repaired -- you know, brought in soil and
7 made the requires to that. And installed gas monitoring
8 wells in Phase 1.

9 My understanding is that there was a tentative
10 cease and desist from the Water Board. The county then
11 took so many -- those actions to repair the cover, to
12 install gas recovery system. And I don't know if there
13 was another -- anyway, there's a number of things that
14 they did --

15 COMMITTEE MEMBER PEACE: Groundwater monitoring
16 system, is there any -- is anybody monitoring the
17 groundwater?

18 MS. BLOOD: Oh, they have an extensive
19 groundwater monitoring system. But the cease and desist
20 went to -- was not -- they didn't do that because the
21 landfill had taken those actions to correct. So the
22 tentative waste discharge requirements needed to be
23 rewritten, because a number of these things that Mr.
24 Cassesi brought up had been addressed by the landfill.

25 And, Rod, you know -- as you say, I don't do the

1 water quality stuff, so I'm not that intimate with it.

2 But that's the way I remember.

3 CHAIRPERSON PAPARIAN: Yes, Mr. Schuler. Go
4 ahead.

5 MR. SCHULER: Thank you.

6 Jerry's right in all of these things. It's just
7 that we played catch up and got these things done so that
8 the Regional Water Quality Control Board now took those
9 things off the table because we are now in the process
10 of -- we've got 11 gas wells in. We're doing the piping.
11 And we're doing the cover repair in Phase 1.

12 So those things are already implemented or being
13 implemented now, as we speak.

14 So a lot of the -- groundwater monitoring, we
15 have a formal program by Jacobson Helgoth, the consultants
16 that are working for us, doing the monitoring. The plume
17 is no longer taking place because we're doing the pumping
18 from a cutoff drench. And all of those things are in
19 compliance now with the Regional Water Quality Control
20 Board.

21 CHAIRPERSON PAPARIAN: Recognizing that we have
22 our jurisdiction and the Water Board has their
23 jurisdiction -- this is a curiosity question. Have you
24 gotten your WDR for what's before us today or do you need
25 a WDR for what's before us today?

1 MR. SCHULER: No, that's going before the
2 Regional Board. We should have had it by now. I've
3 checked in with the Regional Board staff, and it's just a
4 matter of them getting their workload so that they can get
5 that before their board. But right now, as far as we
6 know, there are to be no -- the discharge requirements
7 will be issued.

8 CHAIRPERSON PAPARIAN: Okay.

9 MS. ROSALES: I'd just like to add that there
10 were a WDR that did have a hearing in October 2002. So I
11 believe those are the WDR's that Mr. Schuler is awaiting
12 if he has not received them as of yet. But staff can
13 certainly look into that, whether those WDR's were issued
14 or not.

15 CHAIRPERSON PAPARIAN: And that was a curiosity
16 question more than something that would affect my
17 decision.

18 Go ahead.

19 MR. de BIE: And I think that's something we can
20 do during this week, potentially between now and the Board
21 meeting, is to confirm the status of the WDR's.

22 In the new permit -- or in the new template for
23 agenda items is and area for cross-media, and indicating
24 issues relative to cross-media. I'm hearing at least from
25 Member Peace that potentially some information and

1 enforcement actions relative to other agencies, Regional
2 Board or whatever, might be an appropriate place to put
3 that kind of information in there.

4 It's my understanding just in this brief
5 discussion here with staff and as well as the LEA is that
6 there were issues, they were resolved, and the Water Board
7 is, it sounds like, in the process of updating those
8 WDR's.

9 But we will confirm that for the Board.

10 CHAIRPERSON PAPARIAN: Thank you.

11 Mr. Cassesi, we interrupted you to ask those
12 questions. Did you have more?

13 MR. CASSESI: That's perfectly all right.

14 Yes, I do.

15 Current situation with the landfill -- and I have
16 a lot of faith in Mr. Schuler. I've known him when I was
17 on the planning commission, and I know he's diligent and
18 will try to do a good job. But I also know the history of
19 that place, and I know the list of longstanding violations
20 that were never corrected.

21 Currently, there's what I call an open cesspool
22 there that I guess is leaking. The membrane to this
23 thing -- there was in the minutes of the -- some county
24 committee talks about leaking around the drain or
25 somewhere in that membrane. And I just wonder if that's a

1 reportable item and if this Board was aware of that, or
2 where that needs to be reported to.

3 The reason I say that is, I complained about that
4 place probably eight years ago, when the wind blows from
5 the east, I would getting a terrible smell. And I
6 complained to my local supervisor. And he arranged a tour
7 there at the landfill. And I discovered this open
8 cesspool; and it's where they dump septage from septic
9 tanks. They take it and they dump in this big pool. It's
10 a big rubber-lined pond. And I don't think anyone had any
11 idea it was back there.

12 But that's where the smell was coming from. Of
13 course they denied that's where the smell was coming from.
14 But then you could also see where this thing had
15 overflowed and run down the creek. They denied that too.
16 And I'm no sanitary engineer. But I could tell the stuff
17 that doesn't -- the plastic items that don't deteriorate,
18 you can see them lining the creek bed, and I know that
19 they overflowed.

20 So now they've evidently got a leak in this
21 lining, and I'm concerned with that.

22 The other thing, I asked months ago to be
23 notified -- my supervisor to be notified of all the
24 meetings, anything related to the landfill. After my
25 third request I started getting notifications. But I'm

1 getting them now.

2 I also asked that they put somebody from the
3 public into that committee that -- I forget the name of
4 it -- some kind of waste management committee. They've
5 never done that. And I doubt that that's going to take
6 place.

7 In terms of the alternate daily cover, I can
8 guarantee you the face of that landfill was never covered,
9 never, until we started complaining. And I had some folks
10 here that started taking some pictures. Now it's being
11 covered with old green tarps that are ripped and torn.
12 It's the tarps you buy at Wal-Mart. You just roll it over
13 the face of the landfill, and that's the cover. I mean I
14 don't know if that qualifies as an alternate daily cover,
15 but I would suspect -- I would suspect not. If it did, I
16 would assume it would have to be in one piece and not
17 tattered, and it would have to be sealed on the edges so
18 the rats and the vermin couldn't get into that landfill.

19 The county has recently approved a 90-home
20 subdivision right across the road from this landfill.
21 They've already got a 40-unit mobile home park across the
22 other road. There's a the 90-unit subdivision there. And
23 now they want to increase this thing 8-fold and taking
24 garbage from outside the area.

25 I went to city council, city of Ione, which is

1 about 5 miles from there. I found a letter from the city
2 council that was written in 1991 in the county files
3 opposed to the landfill. That was in 1991. And I wanted
4 to bring to the council's attention that they were aware
5 of what the county was doing. I believe there was four of
6 them -- I know three for sure -- I think four council
7 members were not aware of what the county was doing. The
8 city manager was, but the council members weren't. That
9 might not be the county's problem. But in terms of making
10 people aware in a rural county, we get a newspaper that
11 comes out twice a week. We have no local radio station.
12 I'm sure it gets put on the agenda item in the local
13 paper. But, number 1, how many people read that? And
14 number, 2, if your item in the paper says zone change to
15 the general plan, how much notice does that really give
16 people?

17 I won't keep you any longer. We just -- the only
18 thing we're requesting is that, please, for the state
19 agencies to enforce these regulations to the letter.

20 When you don't have a gas extraction system in
21 for seven years, there is no excuse for that. It's
22 just -- we're paying these tax dollars for these
23 regulations, and nobody is enforcing the regulations.

24 So we'd urge you, please, no more time, no more
25 Mr. Nice Guy. Let's force the regulations. That's all we

1 ask. And we know -- everybody says, "Not in my backyard."
2 We're more than willing to accept a transfer station.
3 This was a transfer station at one time. Nobody can tell
4 me when the decision was made to make it a landfill, why
5 the decision was made to make it a landfill when it was
6 made. It was a landfill years ago. Then it went to a
7 transfer station. Now it's back to a landfill. But you
8 talk to county residents, everyone we talked to said,
9 "Gee, we thought it was a transfer station. What are you
10 talking about, landfill?" People just don't know.

11 So we would urge you to -- any permit they come
12 up for, any expansion, please deny it based on their past
13 history of failure to follow the basic regulations.

14 Thank you.

15 CHAIRPERSON PAPARIAN: Okay. Let me ask one more
16 quick question about what I have before me.

17 Apparently there's a chipping and grinding
18 operation adjacent to the facility, which is now going to
19 be incorporated into the boundary of the facility, as I'm
20 reading the background material?

21 MR. de BIE: Yes, part one of the changes is to
22 include that existing chip and grind facility within the
23 landfill permitted boundary.

24 CHAIRPERSON PAPARIAN: Are there any restrictions
25 on storage of the material that's chipped and grinded?

1 MR. de BIE: As a chip and grind facility as it
2 exists there would be various state minimum standards that
3 apply to it, bringing into the landfill. I'll look to
4 staff or the LEA to see if there's any specific
5 limitations in terms of size of pile or duration of piling
6 in either the RDSI or in the permit.

7 MS. BLOOD: The fire authority -- the fire
8 protection district for Jackson Valley wrote up a list of
9 conditions for the wood waste pile, and setting out the
10 distant -- you know, cleared area between the landfill and
11 the pile and then cleared area around it, between any
12 other brush, and how much water they had to have on-site,
13 and a number of other things I don't remember, have
14 memorized at this point.

15 What's happened is that pile now has gotten to
16 the size that they can no longer accept any wood in the
17 pile. And so the one is going directly into the landfill
18 for disposal. So they can no longer divert wood waste
19 because the pile is too big. And they're working on
20 getting somebody out there that can chip it in order to --

21 CHAIRPERSON PAPARIAN: So there's a large pile
22 that's staying there -- or it would become part of the
23 landfill, but it's not a pile where they're moving some
24 out and putting stuff back on it, it sound like.

25 MS. BLOOD: Right. There's a wood waste -- a

1 storage of wood waste, which is off side of the actual
2 facility boundary. This is the --

3 CHAIRPERSON PAPARIAN: Right. But the new
4 boundary that we have in this proposed permit would
5 incorporate that. So then within the boundary we would
6 have a large wood pile?

7 MS. BLOOD: And they're in the process of now
8 getting a chipper out there who can chip it and haul the
9 wood waste off.

10 CHAIRPERSON PAPARIAN: Okay.

11 MR. de BIE: By bringing it within the landfill
12 boundary the LEA will be obligated to inspect that portion
13 of the operations. And as Margaret -- and determines that
14 there's issues there that need to be addressed, she can
15 taken enforcement action to require the operator to reduce
16 the size of the pile or additional fire lanes, over and
17 above what the fire authorities recommended.

18 So it sounds like nothing specific right now in
19 the RDSI other than what the fire authority has required.
20 But certainly the LEA can, you know, vow that it's within
21 the solid waste facility, can, you know, inspect and take
22 action.

23 CHAIRPERSON PAPARIAN: I'd be a little bit
24 worried about that.

25 COMMITTEE MEMBER WASHINGTON: Mr. Chair.

1 CHAIRPERSON PAPARIAN: Mr. Washington.

2 COMMITTEE MEMBER WASHINGTON: I asked the Chair
3 in private a few minutes ago, and I'll ask him publicly,
4 in terms of this particular item, this resolution with
5 holding harmless the Amador County Sanitation Landfill,
6 the County of Amador, what would happen if we pulled this
7 item, sent it back to the staff to work on it some more,
8 and bring it back?

9 I heard -- I did hear Mr. de Bie say that -- I
10 mean in terms of working on this, that there's no real
11 push to get this -- I mean there's no urgency here.

12 Is that correct, Mr. de Bie?

13 MR. de BIE: Well --

14 COMMITTEE MEMBER WASHINGTON: I mean is there an
15 urgency? There's a lot of issues to be worked out here.
16 And I think -- I'm sorry. Go ahead.

17 MS. ROSALES: I would just like to say that the
18 issue -- there some issues to be worked out. But staff
19 believes they can be worked out and --

20 COMMITTEE MEMBER WASHINGTON: Before the Board
21 meeting?

22 MS. ROSALES: Yes. And the bulk of the work is
23 going to be in the reported disposal site information.
24 And that would be clarifying whether the facility is open
25 to the public or not.

1 The LEA has brought in a revised proposed permit
2 today. And There's three changes in there that are not in
3 front of you, but I could tell you what those changes are.

4 And that would just be removing the one on page 1
5 of the proposed permit that you currently have in front of
6 you, removing the language that indicates it's not open to
7 the public.

8 And then on page 2, it just would indicate the
9 new amendments have been received. So it would document
10 all the amendments that we have received and incorporate
11 those into this permit.

12 COMMITTEE MEMBER WASHINGTON: Does that include
13 the concerns that the witness brought up? I mean I
14 haven't heard any of his concerns being addressed. And he
15 had his hand -- did you want to add something or --

16 MR. CASSESI: I'd like to add one thing I forgot,
17 if I may, just for a second.

18 It's 400 units at the Oaks and not 40. And I was
19 reminded that we turned in 200 signatures, over 10 pages
20 of signatures in opposition to those landfills.

21 COMMITTEE MEMBER WASHINGTON: To who?

22 MR. CASSESI: Turned into the County Board of
23 Supervisors. So there was something in writing that was
24 in opposition to this.

25 CHAIRPERSON PAPARIAN: The precise number -- we

1 get the picture there.

2 I think it was also indicated that as of today
3 there's some question about whether the facility is
4 operating consistent with standards.

5 MS. ROSALES: The violation that was present when
6 staff did the pre-permit inspection was a daily cover.
7 And a focus inspection is pending by the LEA or Board
8 staff to make a determination of compliance in that
9 particular standard.

10 CHAIRPERSON PAPARIAN: And I always -- I'm always
11 worried about us winding up in a situation where we find
12 that short snapshot in time when a facility is in
13 compliance when there's such a long history of being out
14 of compliance, whether we're gaming the permit in any way
15 to assure that we vote on it on the day that it's in
16 compliance, kind of knowing that there's a history before,
17 there's likely to be a history afterwards.

18 In any event, it seems like the facility permit
19 before us today is not the permit we should be voting on.
20 And we have questions about whether the facility is in
21 compliance.

22 Now, if we -- the permit came to us on January
23 8th, so that the last -- okay. It says here the last day
24 for the Board to act on the proposed permit is March 9th.
25 If we don't act on it on March 9th, it's deemed approved,

1 if indeed that application package was true and complete
2 when we received it. So we're kind of in a --

3 COMMITTEE MEMBER JONES: Mr. Chair, Mr. de Bie
4 has already said that they viewed that this was complete.
5 So --

6 CHAIRPERSON PAPARIAN: It was a complete package,
7 yet we don't have a permit that we can vote on today.

8 COMMITTEE MEMBER JONES: Well, I understand. But
9 I thought staff recommended that we just move this forward
10 to the full Board, and give them that time to get it
11 rectified.

12 But I mean it's real clear that Mr. de Bie has
13 already said that they accepted the permit and it was
14 deemed complete. So --

15 COMMITTEE MEMBER WASHINGTON: Mr. Jones, I
16 thought I heard him say that if he had to make a
17 recommendation to this Board at this Committee, that they
18 would recommend a "no" vote. And -- Mr. de Bie, we ought
19 to let you speak for yourself. But I thought that's what
20 I heard in terms of as it is today. Am I correct?

21 MR. de BIE: The permit that we have officially
22 in front of you in this agenda package we know is flawed.
23 And Virginia's indicated the minor issues related to it.
24 And so with that, and in addition to the known violation
25 of daily cover, I think we're on firm ground of

1 recommending a "no" vote, given that by next week we would
2 change that recommendation because everything would be in
3 place. But if asked today, yes, that would be what we
4 would indicate. But we're not asking today.

5 (Laughter.)

6 CHAIRPERSON PAPARIAN: Okay. Mr. Jones is
7 suggesting that we move this over to the full Board
8 meeting without a recommendation.

9 Mr. Washington, are you recommending?

10 COMMITTEE MEMBER WASHINGTON: Yeah, I guess if
11 the staff is saying that we'll have it fixed at the next
12 Board meeting, it just seems -- I mean I hear staff saying
13 that there is technical things, that I heard Mr. Jones say
14 like management stuff that can be worked out and all that
15 stuff. I mean just the issues that are coming up from the
16 community and those folks that are raising these concerns
17 about the cease and desist, everyone looking around like
18 they had no idea what he was talking about, I mean those
19 kind of things concern me. They really do.

20 And I mean, I know it's not in our purview and it
21 belongs to the water folks and all that. But, you know,
22 those are things we should know about because, again, here
23 we are in the process of approving another permit.

24 If they can fix -- I mean I will be okay if they
25 can fix them. And then we have another shot at the full

1 Board meeting.

2 But I do want to hold Amador County harmless with
3 this if there's a way -- I mean if staff could have said
4 to him, "Look, there's some things you guys need to work
5 out. And we're not bringing this before any committee or
6 board." So I hold the staff responsible for this. And I
7 don't think we should hold the county, you know,
8 responsible. So if there's a way this could be fixed and
9 brought to the Board meeting, I mean -- I don't know.

10 CHAIRPERSON PAPARIAN: Ms. Peace, do you have
11 anything you want to add?

12 MR. de BIE: Just to explain a little bit about
13 the timeframe. Since we did receive the permit on the
14 specific date, January 8th, this is the only Board meeting
15 that we could bring this item to. We couldn't let it go
16 to the March because the Board meeting would be after the
17 8th. So this was the only shot in time given the Board's
18 schedule. So that's why it's here this month.

19 CHAIRPERSON PAPARIAN: Ms. Peace, did you have
20 anything you wanted to add?

21 COMMITTEE MEMBER PEACE: What if it's still not
22 complete next week? That's only a week. Looks like an
23 awful lot of things to go through. Can they stop the
24 clock --

25 MR. de BIE: There is a methodology where the

1 applicant is able to communicate a desire to waive the
2 overall timeframe for processing a permit.

3 And if the LEA concurs with that, then basically
4 the timeframe can be waived, a time certain. You know,
5 it's the applicant's right to have a permit processed in a
6 timely manner. If they want to waive that to give us and
7 the LEA additional time to work out issues, that's within
8 their purview. I haven't -- I can't tell you any time an
9 Lea or the Board has indicated an unwillingness to allow
10 the operator to waive that right. It's usually been
11 accepted.

12 COMMITTEE MEMBER PEACE: Mr. Schuler and
13 Margaret, would you be okay with that?

14 MS. BLOOD: Yeah, I just want to make one
15 comment. That with the exception of the wood waste, the
16 operations at the landfill are consistent with the
17 existing permit. There really is no substantive change.
18 The change here is in clarity and in getting things
19 accurate and an accurate RDSI, which we now have.

20 So I don't think -- I wouldn't have any
21 objection.

22 CHAIRPERSON PAPARIAN: Okay. So that's --

23 COMMITTEE MEMBER WASHINGTON: It sounded like you
24 had no objection, that you'll waive the timeframe if -- if
25 this is not prepared by next week before the full Board,

1 then you guys will waive the timeframe?

2 MR. SCHULER: Yeah, that sounds fine to me.

3 COMMITTEE MEMBER WASHINGTON: All right.

4 CHAIRPERSON PAPARIAN: Okay. So to summarize
5 where we're at. This is going to move forward to the full
6 Board. We have no recommendation because we don't have
7 the package in front of us in the manner in which this
8 Committee would like to have it in front of us. We'll see
9 if the package is acceptable next week at the meeting, and
10 then whether the Board concurs or not.

11 I think that given what we've all heard here
12 today, I think several of us have a lot of skepticism,
13 given what we've heard. So you do have a little bit of a
14 burden to overcome in terms of assuring that the permit
15 that comes before us is one that's in a condition where a
16 majority of the Board would feel comfortable approving
17 that.

18 I think -- you know, we heard -- Mr. Schuler, we
19 heard from Mr. Cassesi that you had a good working
20 relationship. And I would encourage you to continue that,
21 and certainly with the LEA as well. It seems like you
22 have some very concerned residents who are very
23 knowledgeable about the local situation and want to have
24 their voices heard. And I would very much encourage you
25 to assure that you continue to hear their voices and

1 assist them in any way possible and showing that they're
2 part of the local processes that occur with this facility.

3 MR. SCHULER: Yes, sir. I appreciate that.

4 CHAIRPERSON PAPARIAN: Okay. Anything else?

5 MR. de BIE: If I may, just to clarify additional
6 information that the Committee members are asking.
7 Clarification on the Regional Water Quality Control Board,
8 where they are with that tentative order and the WDR's, is
9 one. We will have a follow-up inspection to verify state
10 minimum standard compliance. And we're going to look
11 closer at that wood pile and see the need for additional
12 controls in that, if necessary, and consult with the LEA
13 relative to that.

14 Is there anything else that we --

15 COMMITTEE MEMBER PEACE: Yeah, I was concerned
16 about that wood pile also. When's it going to go away?
17 And why can't it go away like now?

18 MR. de BIE: It's my understanding that they are
19 looking for a contractor that will come in and chip that
20 material to haul off. But in the meantime, if there are
21 issues there, we'll --

22 CHAIRPERSON PAPARIAN: I don't think we need to
23 discuss the wood pile much further right now other than
24 we've flagged it as an issue of concern to several of us.
25 And in fact I think if you look at the very next permit,

1 we're going to come up with -- there are permit terms and
2 conditions in the next permit item that relate to the size
3 and so forth of a wood pile at a different facility. And
4 that might need to be considered at this facility.

5 COMMITTEE MEMBER WASHINGTON: Mr. Chair.

6 I do want to notice the witness mentioned a
7 leakage somewhere. And I didn't here anyone -- did you
8 hear his concern about the leakage?

9 MR. de BIE: Yes, I did. And my initial reaction
10 is it's a Water Board issue. And so we'll add that on the
11 list when we talk to the Regional Board.

12 COMMITTEE MEMBER WASHINGTON: All right. Thank
13 you.

14 CHAIRPERSON PAPARIAN: Okay. Are we ready to
15 move forward to the next item?

16 ACTING DEPUTY DIRECTOR WALKER: Item F is
17 consideration of a new full solid waste facilities permit
18 (transfer/processing station) for the Cedar Avenue
19 Recycling and Transfer Station, Fresno County. This is
20 February Board Item Number 7.

21 And again Virginia Rosales will be giving the
22 staff presentation.

23 MS. ROSALES: Let me forewarn you this is a
24 similar situation here.

25 Proposed Cedar Avenue Recycling and Transfers

1 Station (CARTS) will be located in the city of Fresno and
2 it's privately owned by the Caglia Family Trust and will
3 be operated by Carts, Incorporated.

4 The proposed facility will be adjacent to the
5 existing permitted Orange Avenue Landfill, which is also
6 owned and operated by the Caglia family.

7 In summary, the proposed permit will allow for
8 the following:

9 Receipt and transfer of municipal solid waste, or
10 MSW; sorting and processing of commercial recyclable
11 material, sorting and processing of construction and
12 demolition material, chipping and grinding of green
13 material and wood waste, sorting and processing of
14 residential curbside recyclables.

15 The proposed facility will have a design capacity
16 of 3,100 peak tons per day of MSW and other recyclable
17 materials.

18 The proposed hours of operation will be 7 days
19 per week, 24 hours per day, for processing and
20 maintenance; and from 6 a.m. to 6 p.m. for receipt of
21 material.

22 The facility will serve the city and county of
23 Fresno. Other local incorporated cities in Fresno County
24 may also contract for service.

25 Since the item was prepared Board staff have

1 determined that the proposed permit is in conformance with
2 the city's nondisposal facility element. However, based
3 on staff's review and analysis of the permit package and
4 comments provided to the LEA, a revised transfer
5 processing report, or TPR, and proposed permit were
6 received by the Board on January 30th.

7 Board staff continue to work with LEA and
8 operator to resolve an outstanding issue in the newly
9 received TPR. Although the issue appears to be minor in
10 nature, staff need to have the matter clarified in the TPR
11 in order to make a determination of consistency with state
12 minimum standards, completeness of the TPR and adequacy of
13 the CEQA.

14 Providing the issue can be resolved this week,
15 which we believe it can, and staff finds all the
16 requirements have been satisfied, staff will recommend
17 concurrence with the issuance of the permit. Board staff
18 will prepare an updated agenda item for distribution prior
19 to next week's Board meeting, which will include the
20 revised proposed permit received on January 30th, and
21 provide a recommendation to the Board at the February 11th
22 Board meeting.

23 This concludes staff's presentation.

24 Evan Edgar, representing the operator, and
25 Richard Caglia, representing the owner/operator, and Hank

1 Gil and Randy Reyes for the Fresno County LEA are here
2 today and available to answer any questions you may have.

3 CHAIRPERSON PAPARIAN: Can you just -- the
4 January 30th -- what happened on January 30th?

5 MS. ROSALES: We received an updated transfer
6 processing report and a revised proposed permit.

7 CHAIRPERSON PAPARIAN: So when did the clock
8 start on this? Was it January 30th or was it January 6th?

9 MR. de BIE: January 6th is when the overall
10 clock started.

11 We'll seek your advice on this, Board members.
12 But typically Board staff do not reset the clock when we
13 get updates or amendments to the permit if they're minor
14 in nature.

15 And that's the way we've been operating for a
16 while. So we did not restart the clock when we got a
17 submittal at the end of the month.

18 CHAIRPERSON PAPARIAN: So what came in on January
19 30th were minor revisions in your view?

20 MR. de BIE: My understanding is that they were a
21 response in staff's review and comments on the package
22 that we received, and they were of a minor nature to some
23 extent.

24 CHAIRPERSON PAPARIAN: Yeah -- to some extent?
25 Wait --

1 MR. de BIE: I'm going to defer to Virginia. She
2 did the review. She wrote the comment letter. And I just
3 benefit from her briefings.

4 CHAIRPERSON PAPARIAN: I think there have been
5 times when we've instructed a restarting of the clock,
6 where we called for a restarting -- or a new clock based
7 on a new application, revised application coming in. I
8 think I recall that about a year, year and a half ago.

9 MR. de BIE: There have been times when items
10 have been brought forward where the Board has indicated
11 that it was their opinion that there were significant
12 changes and indicated the clock should be restarted. But,
13 again, staff has not -- there isn't any firm criteria that
14 staff operate under in determining when the clock should
15 start or restart.

16 CHAIRPERSON PAPARIAN: It's a separate issue we
17 may need to deal with at some point.

18 But in terms of this one, what changed on January
19 30th?

20 MS. ROSALES: The permitted hours of operation,
21 we asked for clarification on that. So that would be a
22 difference.

23 The permit that you have before you indicates,
24 "Refer to the transfer processing report, Table 3, hours
25 of operation." And what is changed now in the January

1 30th permit is 24 -- it reads 24 hours, 7 days a week.
2 And then "see the transfer processing report for 24
3 hours." So that it's clarified that they are operating 24
4 hours. We do have that allowance to do so.

5 COMMITTEE MEMBER JONES: Was that --

6 CHAIRPERSON PAPARIAN: Go ahead, Mr. Jones.

7 COMMITTEE MEMBER JONES: Were those the two
8 changes?

9 MS. ROSALES: There was a couple other things, I
10 think indicating the amendments, well, you would now have
11 to update, the date for the new transfer processing
12 report. So that would be another change in there.

13 COMMITTEE MEMBER JONES: So the January 30th
14 document was in response to questions that you brought up?

15 MS. ROSALES: That's correct.

16 COMMITTEE MEMBER JONES: So this was not a new
17 permit. This was a permit -- I mean a request gets in,
18 questions get asked, operator responds to the questions,
19 right?

20 MS. ROSALES: Right.

21 COMMITTEE MEMBER JONES: And that's what this is?

22 MS. ROSALES: Yes.

23 MR. de BIE: That's correct.

24 Correct me if I'm wrong, but there was an issue
25 about some description in the TPR relative to the

1 operations pad that we wanted a clarification to.

2 MS. ROSALES: Yes, there's a -- there's been
3 several references made in the transfer processing report
4 that indicate construction of an engineered inert field
5 pad. And staff were uncomfortable with that, and we're
6 asking for clarification on that.

7 So that's what the issue is. But we'd just like
8 to have clarification on that. In talking with the
9 operator and Evan, I think maybe they could address it
10 better what their thoughts are on that. And that's the
11 issue we are looking to have clarified at this time.

12 CHAIRPERSON PAPARIAN: Okay. So in any event,
13 the permit in our package today is not the permit that we
14 would be approving should we approve a permit for this
15 facility?

16 MR. de BIE: We're experiencing deja vu with the
17 previous item. And that's the case. Here it's all
18 paperwork, whereas the other one was mostly -- not mostly,
19 but in addition to paperwork was an outstanding
20 noncompliance situation that needed verification.

21 CHAIRPERSON PAPARIAN: So it sounds like we're
22 going to need to hear this in any event at the full Board
23 meeting.

24 So, yeah, we may just move it the full Board
25 meeting. But there are several people here including the

1 applicant. Is there anybody won't otherwise be coming to
2 full Board meeting given this situation that needs to
3 speak?

4 MS. ROSALES: Not that I'm aware of.

5 CHAIRPERSON PAPARIAN: Okay. Let's move this on
6 to the Board meeting.

7 MR. de BIE: If I could put in a little public
8 announcement here.

9 The last permit as well as this permit was
10 received by the LEA based on a processing timeframe
11 established by statute and reg, but inconsistent with the
12 Board's past program permit application submittal schedule
13 program; that if it had been submitted on a date
14 consistent with that, we would have -- staff would have
15 had additional time. As you can see, with both of these
16 we had less than a month to really pull it together and
17 bring an item forward.

18 So for all those LEA's listening to this
19 Committee out there in web land, please look at the
20 schedule for past this year and try to comply with that.

21 Thank you.

22 COMMITTEE MEMBER PEACE: Margaret, can I just ask
23 you one question?

24 In this facility it's -- I have 3,100 tons a day.
25 That's what they want this permit for?

1 MS. ROSALES: That is correct.

2 COMMITTEE MEMBER PEACE: Where is all that stuff
3 going now? That's like an awful lot of --

4 MS. ROSALES: Well, the facility is proposed
5 right now, so it hasn't been built at this time. And that
6 would be their peak tonnage over a period of time. But
7 that does include not only the MSW, it also includes the
8 recycling materials.

9 CHAIRPERSON PAPARIAN: So, Evan, do you want to
10 give a shot at that without revealing business secrets?

11 MR. EVAN EDGAR: Evan Edgar on behalf of the
12 Caglia Family and their engineering -- document.

13 Currently a lot of the material is going to
14 Crippen. And there's a lot of unpermitted facilities in
15 the Fresno region taking C&D waste. So what's happening
16 down there is it's permitted for 3,100 tons a day to
17 include green waste, C&D, commercial recyclables,
18 residential recyclables, and MSW transfer.

19 CHAIRPERSON PAPARIAN: Thank you.

20 The LEA.

21 MR. GIL: Hank Gil, Fresno County LEA.

22 I just want to clarify, this permit package was
23 consistent with the past program. They had waived the
24 statutory time limit because they had to go through the
25 NDFE process to make sure. So, you know, originally when

1 it was first accepted by the LEA and went through the
2 process, and it was originally submitted, you know, during
3 the past schedule itself.

4 CHAIRPERSON PAPARIAN: Are you talking about
5 several months ago when it first came --

6 MR. GIL: Exactly. The timeframe was waived, and
7 that's --

8 CHAIRPERSON PAPARIAN: Okay. We want to -- we'll
9 let you and Mr. de Bie arm wrestle that one later.

10 MR. de BIE: Public record, yes, that's true.
11 And I apologize to Hank for that. I was just responding
12 to this last submittal. But originally we did have it and
13 consistent with past. But then when it was resubmitted
14 after the time frames had been waived, it was not
15 consistent with past -- I stand corrected.

16 Thank you, Hank.

17 CHAIRPERSON PAPARIAN: Okay. Thank you.

18 We have one more item and then public comment. I
19 know we have at least a couple public commentators. We
20 may not -- I mean you who are still around and have -- I
21 believe may have some significant things to say, which may
22 take a few minutes to go through.

23 So with that in mind -- I'm recognizing the hour
24 of the day. And I don't want to short change you on this
25 local enforcement agency evaluation process item, maybe

1 you can be quick -- I don't know if we should put this
2 over and have more time to give it at a different time.

3 Is there anybody who came just for this item or
4 who is in any way inconvenienced if we were not to hear
5 this item right now?

6 Okay. Are you comfortable -- members, are you
7 comfortable?

8 COMMITTEE MEMBER JONES: I think doing this next
9 month is more important. The LEA's get ripped to pieces
10 here.

11 So let's hear how you evaluate them and let's do
12 it next month, and put it at the beginning of the agenda
13 so that it gets it's true value to this Board.

14 CHAIRPERSON PAPARIAN: Okay. I'll work with
15 staff to put it near the beginning of the agenda. I can't
16 guaranty it would be the first item, depending on how the
17 agenda works. We'll certainly endeavor to hear it in the
18 morning next month --

19 (Laughter.)

20 CHAIRPERSON PAPARIAN: -- when we're a little bit
21 fresher.

22 Okay. So I think that's it on the regular
23 agenda. We have public comment.

24 We have Mr. Murray and Mr. Aprea who have
25 indicated they wanted to speak during public comment.

1 We'll start with you, Mr. Aprea.

2 Okay. You're on Mr. Aprea.

3 MR. APREA: I'll try to keep this brief, given
4 the hour.

5 Good evening, Chairman Paparian, members of the
6 Committee. For the record, my name is Mark Aprea. I'm
7 representing Republic Services today.

8 While the C&D regs nor any discussion of these
9 regulations are on the Committee's agenda today, I'd like
10 to raise some of the issues on the subject of C&D regs,
11 given that the Chair indicated that this item has been
12 pulled from the agenda for this month.

13 Throughout the development of the C&D regulations
14 these facilities have been characterized by some as low
15 risk. By virtue of the Crippen fire, we know that is not
16 the case. We know now that the C&D facilities, like all
17 facilities that handle municipal solid waste, which C&D
18 falls within the definition, if not properly permitted,
19 regulated, and operated do pose a danger even if it takes
20 in only 40 tons per day. We do know that some C&D
21 operators do not operate properly and do cause a
22 substantial risk to the environment, to public health and
23 safety. And we do know that some C&D operators skirt
24 these regulations in order to gain a competitive
25 advantage.

1 We also are aware that we can't distinguish
2 between a load of C&D material and a load of MSW. In the
3 staff report earlier today on the Crippen fire, I looked
4 at these pictures. And we have pictures of the C&D
5 material and then we have pictures of what was deemed to
6 be residual. Except for some pieces of plastic in there,
7 I really couldn't tell the difference between one shot and
8 another. And it strikes me that the issue that we have
9 raised from time to time that you can't make a distinction
10 between C&D and a load of MSW holds true by virtue of the
11 pictures provided by staff.

12 Even allowing a small facility to simply provide
13 this Board with notification and being subject to a
14 inspection once a year still poses a significant risk to
15 public health, safety and the environment. It also poses
16 a significant financial risk to the public treasury. All
17 the costs have yet to be tallied. We do know that the
18 cost of extinguishing and cleaning up the Crippen fire may
19 exceed \$2 million. Given that the Board will not again
20 take this issue up until the March meeting, we think that
21 the only -- and, therefore, the only choice that the Board
22 will have at the March meeting will be to vote up or down
23 a reg package with full -- requirement for a full solid
24 waste facility permit at 300 tons per day.

25 Mr. Chair, members of the Committee, it's been

1 suggested by some that the solid waste industry reevaluate
2 its position on this regulatory package. Mr. Chairman,
3 members, it is always appropriate to reevaluate one's
4 position.

5 It strikes me, however, that it's also
6 appropriate that in light of what we have learned at the
7 Crippen fire, that this Board also ought to reevaluate
8 it's position and not travel down a path where the only
9 choice is no regulations or regulations that are clearly
10 inappropriate and ineffective in addressing one of the
11 biggest problems we've had with the C&D facility.

12 As a result of the Crippen fire legislation has
13 been introduced last week that eliminate the tiered
14 permitting process and requires all solid waste facilities
15 permits, whatever their type or nature, to receive a full
16 solid waste facilities permit in order to operate.

17 I, therefore, urge that this Committee and that
18 the Board adopt emergency regulations for C&D facilities
19 that require a full solid waste facilities permit at 100
20 tons per day or more. And that after this emergency reg
21 package is considered, that the Board could with more
22 deliberation come up with a permanent package. Then as
23 more of the facts are brought in and those facts are
24 analyzed by the staff, by this Committee and by the Board,
25 you can then develop a sound package.

1 But right now the path that you're going down
2 will provide you with only one option -- or one set of
3 choices, if you would, rather, for the March meeting.
4 And, that is, to vote up or down the package that the
5 Board directed the staff to prepare for comment.

6 Now, certainly there are other ways of addressing
7 this issue. And I think that in light of the
8 circumstances that a reevaluation of the direction by this
9 Board would be appropriate.

10 I'll take any questions if there are any.

11 CHAIRPERSON PAPARIAN: Any questions?

12 MR. APREA: Thank you.

13 CHAIRPERSON PAPARIAN: Thank you.

14 Mr. Murray.

15 MR. MURRAY: Good afternoon. Mark Murray with
16 Californians Against Waste.

17 I will attempt to be brief on this. My comments
18 also speak to the issues that rise from the Crippen fire.
19 But, frankly, I could also be talking about the issues
20 that arise from some of the permits that were before the
21 Board today were the agenda item on public comment --
22 public comments on general permits.

23 Appropriately the primary focus of the Board's
24 attention and staff's attention with regard to the Crippen
25 fire should be on bringing the necessary resources and

1 expertise to bear in terms of protecting public health,
2 ensuring workers' safety and mitigating any other impacts
3 to the environment. And I don't want my comments today to
4 be interpreted in any way to distract staff from that
5 primarily responsibility.

6 The description of the Crippen site, the photos
7 that were presented, illustrate 20 foot to 30 foot -- 2 to
8 3 story high pile covering 100 to -- in Mr. Jones's
9 description, potentially 140,000 cubic yards. This is
10 obviously an illegal disposal site. It's a facility
11 that's been operating illegally in plain sight for years,
12 if not decades.

13 Its illustration -- the fact that with comments
14 that have been brought forward today in describing the
15 situation down in Fresno, this may not even be the only
16 illegal disposal site in the Fresno area of this nature.

17 It is a safe bet that there are similar illegal
18 disposal sites, some regulated, some unregulated, that
19 pose a similar threat to public health and safety
20 throughout the State.

21 This tragedy underscores the long overdue need to
22 reexamine and reform the permit and enforcement of solid
23 waste facilities across this state. And I really want to
24 focus particularly on enforcement issues before the Board
25 here.

1 I'm sure that many of the state's waste handlers
2 make every effort to operate within the rules. Today's
3 Committee agenda demonstrates there are numerous
4 facilities, some illegal such as the Crippen site, but
5 many that are technically legal that can consistently
6 operate in violation of state minimum standards. I
7 couldn't have asked for a more illustrative agenda item
8 than the Amador County and the Tehama County agenda items
9 on this issue.

10 Both the illegal disposal facilities as well as
11 the legal disposal facilities and other solid waste
12 facilities that consistently operate in violation of state
13 minimum standards pose the potential of creating similar
14 kinds of fire or worse types of environmental public
15 health tragedies.

16 Over the last several years there have been
17 literally hundreds of facilities that have seen their
18 permits approved by this Board that have been consistently
19 found in violation of state minimum standards, in many
20 instances dozens of violations per facility.

21 This Board, frankly, needs to step up its
22 enforcement activities. And there's a relatively new
23 report out from CalEPA that talks about enforcement
24 activities throughout the CalEPA. And this agency is,
25 frankly, the weak little sister among enforcement in those

1 areas.

2 I don't want to bore you with some details in
3 terms of the kind of enforcement actions that other
4 entities take. But the Air Board alone issued 275 notices
5 of violation and generated \$21 million in settlements and
6 issued \$18 million worth of fines. They issued 5900
7 compliance orders.

8 The Regional Water Board -- the Regional Water
9 Board that seemed to be identifying in a previous agenda
10 item operating standards that were in violation of a
11 facility, causing them to move a cease and desist order or
12 at least to contemplate a cease and desist order,
13 something that this Board just, frankly, doesn't do.

14 While it is likely that the Legislature's going
15 to take a closer look at this issue and how to prevent it
16 from occurring again, we concur with the comments that
17 have already been made by Board members earlier today that
18 this Board and, frankly, this Committee specifically needs
19 to initiate a process to evaluate and reform the solid
20 waste facility permitting and enforcement system in this
21 state.

22 And among the issues that I think need to be on
23 the table, number one, it's time -- and very appropriate
24 given the previous agenda item -- it's time that this
25 Board put the brakes on approving permits for new and

1 expanded -- expanded permits for solid waste facilities
2 that are in violation of the state minimum standards.

3 This Board needs to become more aggressive in the
4 exercise of its existing fine and sanction authority
5 generally, but especially for those facilities operating
6 illegally and in violation of state minimum standards.
7 And, for example -- and this may seem -- for some of the
8 newer Board members it may seem shocking that this occurs
9 as a regular occurrence here. But, for example, if an
10 operator of a solid waste facility has 5 or more
11 violations in a year, it should start facing automatic
12 fines. After 10 or more violations facility operators
13 should know that they're going to face a cease and desist.

14 Notwithstanding any other provisions of law,
15 LEA's should always have the authority to undertake
16 unannounced inspections of solid waste facilities that are
17 in existing violation of state minimum standards.

18 This Board also needs to reassert its role as a
19 direct enforcement agency over facilities. Specifically,
20 the Board needs to step up its direct inspection of both
21 permitted solid waste facilities as well as potentially
22 illegal disposal facilities such as the Crippen site.
23 This Board should have the authority to undertake
24 unannounced inspections of solid waste facilities that are
25 in violation state minimum standards. And when the Board

1 finds situations that pose a threat to public health and
2 the environment, the Board needs to take direct action.

3 The Board has the authority. Despite the LEA's
4 direct rollover enforcement, that the Board does -- within
5 your regulations you do have the authority -- when you go
6 into a site and you see the that there is a threat to
7 public health and the environment, you have the authority
8 to shut that operation down. And the Board needs to take
9 that responsibility to heart.

10 There needs to be -- we concur with the sentiment
11 that was expressed earlier by Board Member Washington
12 about the need for a greater public access to the process
13 and public hearings as an essential step. But I think
14 maybe, as illustrated by Mr. Cassesi, who has on his own
15 done an incredible job, there is a need to provide support
16 to the public so that they can participate constructively
17 within these processes. I'm thinking of something along
18 the lines of an ombudsman role like they have in the
19 Public Utilities Commission and at the Air Board that
20 assists the public in presenting information to the Board
21 so that they're not having to go through the public
22 records of the city of Ione nine years back to find a
23 letter of the city opposing solid waste facility. They
24 could be assisted in that.

25 And, frankly, we cannot have the kind of

1 breakdown that we saw earlier today on this agenda item --
2 on the Amador County agenda item. By having an ombudsman
3 role, having the legislature give you the money and the
4 authority to do that, it will make I think this process
5 move smoother.

6 I apologize for going on. I had a lot here. I'm
7 just going to try and wrap it up with just a few other
8 issues.

9 What was a particularly frustrating component of
10 the Crippen tragedy was the fact that members of the
11 public did complain, they did go to local officials and
12 say, "There's a problem here. Something doesn't look
13 right to us." They took the time to take photos, to take
14 video, to document their concerns. And those concerns
15 were ignored.

16 There has to be a way for the public, there's got
17 to be a step for the public to take. When their
18 complaints are ignored, there's got to be a way to appeal
19 those complaints to a higher authority. This Board should
20 be that higher authority. Something along the lines of
21 the Air Board's gross polluter hotline, where folks can
22 call up and say, "There's some violation. I'm confident
23 there's a violation going on here. Somebody needs to do
24 something about it."

25 We understand that local agencies may not have

1 the resources, may not have the time, may not have the
2 interest in going after some of these facilities. But,
3 obviously, when this Board has to end up footing the bill
4 to pay the cost of the cleanup, it's appropriate that that
5 mechanism be in place.

6 This Board, in coordination with local agencies
7 and with the help of the public, needs to facilitate --
8 needs to initiate a physical survey of illegal disposal
9 facilities throughout the state. As Crippen illustrates,
10 these illegal sites can be more than just an esthetic
11 problem. They pose a serious public health, safety and
12 environmental -- and as well as an environmental
13 consequence. And you can't continue to ignore it.

14 Stepping up enforcement and cleaning up illegal
15 disposal sites will not come cheap. While some of the
16 funding for this can be realized through more aggressive
17 enforcement, more aggressive fining, we believe that this
18 Board needs to identify a designated source of funding to
19 do this kind of enforcement activity, to have this kind of
20 public education; and we think the appropriate vehicle for
21 that is an increase in the tipping fee of something of the
22 order of 50 cents to a dollar per ton to help pay for
23 increased enforcement, a survey of illegal dump sites, and
24 a greater public-access opportunity.

25 During the course of this Board meeting I wrote

1 down a number of other detailed items in this area. I'm
2 hoping that this Committee will agendize this broader
3 issue of enforcement and public access. But like Mr.
4 Washington, I feel that this is an issue that, frankly,
5 may need to go directly to the Legislature. And I want to
6 just let folks know that that's where I'm inclined to go
7 right now.

8 Thank you very much for the time, and I
9 appreciate it.

10 Be happy to answer any questions.

11 CHAIRPERSON PAPARIAN: Mr. Jones.

12 COMMITTEE MEMBER JONES: Thanks.

13 Mr. Murray, it's an interesting strategy to call
14 what was considered a C&D recycling facility and an
15 illegal dump the next day. I don't know what I'm going
16 term it. I'll wait till we're in closed session --

17 MR. MURRAY: I've never called this a C&D
18 recycling facility.

19 COMMITTEE MEMBER JONES: But it is exactly what
20 it is.

21 MR. MURRAY: And I think that you'd have to be
22 crazy to call this a C&D recycling facility.

23 COMMITTEE MEMBER JONES: The examples that have
24 come forward for the last year and a half through this
25 process were one example after another that mirrored that

1 facility. Like it or not, that's what testimony showed.
2 Weaver sites, the Crippen site, all sorts of sites like
3 that, that's what they proposed to be.

4 So I have no problem with you talking about
5 enforcement. But one thing you need to understand, that's
6 different than the Air Board or different than the Water
7 Board, is the people that operate solid waste facilities
8 need to be in compliance to continue to operate. We have
9 long-term violators. When I got to this Board there were
10 49 of them. Today there's 13 -- I think it's 13 -- 13 or
11 14. Most of those were for gas.

12 The LEA's, which we would have heard about today,
13 do their job. They inspect, and they do it.

14 The people that operate these facilities are very
15 different than people that run a stack, have a paint
16 booth, do things that could invoke air polluting
17 violations. So it's mixing apples and oranges, Mark, is
18 what I'm telling you.

19 MR. MURRAY: You know, I'll tell you, taking a
20 look at the situation down in Fresno, I don't think -- if
21 I'm mixing apples and oranges, then you need to ask the
22 Legislature to increase your authority to do something
23 about these situations. So, you know, I don't want to
24 have a debate about how many C&D recyclers --

25 COMMITTEE MEMBER JONES: We're going to end up

1 doing that with our regulations.

2 MR. MURRAY: Pardon me?

3 COMMITTEE MEMBER JONES: We'll do it through our
4 regulations because regulations will get those kinds of
5 facilities into a system where they can be monitored.

6 MR. MURRAY: Yeah, I think you're right. But
7 ultimately somebody's got to be willing to take action,
8 take enforcement action on these facilities. Somebody's
9 got to take action -- somebody's got to -- these operators
10 need to know that if they continue to drag their feet with
11 these violations, that they're not going to have a permit
12 approved by the Board; in fact, they're going to get fined
13 by the Board.

14 COMMITTEE MEMBER JONES: I agree. I got no
15 problem with that.

16 MR. MURRAY: And if you don't have that authority
17 here, then we need to go to the Legislature and ask for
18 that authority.

19 Similarly, right now you're being constrained by
20 the time process that -- you guys -- the pressure's on
21 you, not the applicant. If you guys can't muster the four
22 votes to deny one of these permits, if you need more time,
23 the permit goes through. The permit needs -- gets
24 approved. So I think there are several issue on the table
25 right now that we need to go to the Legislature -- this

1 Board needs to go to the Legislature and ask for greater I
2 authority.

3 So I'm not -- if it came across like I'm blaming
4 the Board, I don't intend to do that. I think many of the
5 problems are you need greater authority from the
6 Legislature to do the job.

7 CHAIRPERSON PAPARIAN: And I -- at the risk of
8 prolonging this discussion, you know, last year I would
9 guess there were at least 500 violations of state minimum
10 standards statewide. And in the last 4 or 5 years, you
11 know, we're talking thousands of violations. In the last
12 4 or 5 years I don't think there's ever been a fine
13 related to those violations. I think maybe that is
14 something that we need to wrestle with at some future
15 meeting to see --

16 COMMITTEE MEMBER PEACE: Definitely do,
17 especially for the ones that we keep seeing the same
18 people violating the same thing over and over again. We
19 have to make them know that we're serious and we're going
20 to do something about it.

21 CHAIRPERSON PAPARIAN: Okay. Thank you, Mr.
22 Murray.

23 Last public comment, Sean Edgar.

24 MR. SEAN EDGAR: Good afternoon, Mr. Chairman,
25 members of the Committee. I'll make my comments brief.

1 Sean Edgar on behalf of California Refuse Removal
2 Council, supporting the Republic Services' comments
3 regarding the need to bring the regulations, discussion of
4 the C&D regulations back in February, being that that will
5 provide an opportunity adapt, modify those regulations
6 accordingly in light of the information that we saw
7 presented out of Fresno earlier today.

8 We do believe that the transfer processing
9 component and the disposal aspects are linked. To
10 characterize the Crippen site as a legal disposal facility
11 that somehow transfer processing did not take place there,
12 we've in our prior testimony laid out case by case the
13 millions and million of dollars that this Board has spent
14 on prior occasions over the last 5, 6 years on sites that,
15 yes, they've ended up being disposal, but, yes, it started
16 out as transfer processing. So the two concepts are
17 linked. To label this as wholly one or wholly another is
18 probably inaccurate. The fact is this site was both. The
19 fact is the Board is going to spend a million dollars,
20 other government will spend much more money to clean up
21 this site.

22 With regard to the step up in enforcement, Mr.
23 Murray's comments, stepping up in enforcement is
24 wonderful, but you have to have standards to enforce too.
25 The challenge, as we've testified prior, is with regard to

1 the failure over eight years to make headway on this issue
2 of C&D regulations. We've ended up in kind of a stalemate
3 and what we would consider a perversion of the 1994 policy
4 adopted by this Board on non-traditional facilities. Our
5 prior testimony is that, you know, C&D waste is very
6 traditional. And there's nothing non-traditional about
7 this. The time to act is now. And we certainly
8 appreciate your consideration of bringing the item back in
9 February, next week, for more discussion.

10 Happy to answer any questions you might have.

11 CHAIRPERSON PAPARIAN: Thank you.

12 Any questions?

13 Okay. I don't have any other comments.

14 So with that, we'll adjourn this meeting.

15 (Thereupon the California Integrated Waste
16 Management Board, Permitting and Enforcement
17 Committee adjourned at 5:10 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board,
7 Permitting and Enforcement Committee meeting was reported
8 in shorthand by me, James F. Peters, a Certified Shorthand
9 Reporter of the State of California, and thereafter
10 transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 4th day of March, 2003.

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21
22
23 JAMES F. PETERS, CSR, RPR
24 Certified Shorthand Reporter
25 License No. 10063